THE TRIAL LAWYER'S GUIDE

1999 CUMULATIVE INDEX SUPPLEMENT

for Trial Lawyer's Guide 1991-1998 Annual Volumes

by
JOHN J. KENNELLY
and the
Publisher's Editorial Staff

WEST GROUP
Bancroft-Whitney • Clark Boardman Callaghan
Lawyers Cooperative Publishing • WESTLAW® • West Publishing

Pub 6/99

COPYRIGHT © 1999
BY
WEST GROUP
ALL RIGHTS RESERVED

"This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services."—From a Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers.

Ω

List of Index Topics

References are to topic headings. Lower level index entries for headings followed by a "see" cross-reference are contained under the cross-referenced topic only. Lower level index entries for headings followed by a "see also" cross-reference are contained under both topics.

ACCIDENT REPORT

ACCOUNTING

ACQUIRED IMMUNE DEFICIENCY SYNDROME
see AIDS (this index)

ACTION

ADA
see Americans with Disabilities Act (this index)

ADMIRALTY LAW
see also Maritime Law (this index)

ADMISSIBILITY OF EVIDENCE
see also Attorney-Client Privilege; Privileged Communications (this index)

ADMISSIONS

ADOPTION

AERIAL PHOTOGRAPHS

AFFIDAVIT

AGE DISCRIMINATION

AGENCY

AIDS

AIR BAGS

AIR TRAFFIC CONTROLLERS

AIRLINES

AIRPLANE ACCIDENTS
see also Warsaw Convention Treaty (this index)

ALABAMA

ALCOHOL

ALTERNATIVE DISPUTE RESOLUTION
see also Arbitration (this index)

AMENDMENTS

AMERICANS WITH DISABILITIES ACT
see also Arbitration; Employment Relationship (this index)

ANATOMICAL MODELS

APPEAL AND ERROR
see also Preserving Issues for Appeal (this index)

ARBITRATION
see also Alternative Dispute Resolution (this index)

ARGUMENT
see also Closing Argument; Focus Groups; Opening Statement (this index)

ASBESTOS

ASSAULTS
see Premises Liability and Criminal Assaults (this index)

ASSUMPTION OF RISK

ATTORNEY-CLIENT PRIVILEGE

ATTORNEYS
see also Attorneys' Fees; Prosecuting Attorneys (this index)

ATTORNEYS' FEES
see also Insurance (this index)

AUTOMOBILES

AVIATION

AVIATION LAW
see also Airplane Accidents (this index)

BENCH CONFERENCES

BIBLIOGRAPHY

BLACKBOARDS

BLOOD BANKS

BOY SCOUTS OF AMERICA

BRIEF

BUILDINGS

BURDEN OF PROOF
see also Heart Injuries From Blunt Chest Trauma (this index)

BYLAWS

BYSTANDERS

CALIFORNIA

CAMERAS IN COURTROOM

CATASTROPHE LITIGATION

CAUSATION
see Proximate Cause (this index)

CHEMICALS

CHILDBIRTH
see Obstetrics (this index)

CHILDREN
see also Infants; Witnesses (this index)

CHOICE OF FORUM
see Forum, Choice of (this index)

CHOICE OF LAWS

CIGARETTES
see Tobacco (this index)

CITIES

CIVIL RIGHTS ACTIONS
see also Arbitration (this index)

CIVILITY

CLASS ACTIONS

CLOSING ARGUMENT
see also Argument (this index)

COMMERCIAL DIVISION

COMPARATIVE FAULT

COMPUTERS

CONCLUSIONS

CONDOMINIUM ASSOCIATIONS

CONFLICTS OF INTEREST

CONSORTIUM, LOSS OF
see Society, Loss of (this index)

CONSTITUTIONAL LAW
see also Due Process of Law (this index)

CONSULTANT

CONSULTATION WITH CLIENT

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT OF ILLINOIS

CONTINUING OBJECTIONS

CONTRACTS

CONTRIBUTION

CONTRIBUTORY NEGLIGENCE

COUNTERCLAIMS

COUNTRY CLUBS

COURT
see also Alternative Dispute Resolution (this index)

CREDIBILITY

CREDIT INVESTIGATION

CRIMINAL LAW
see also Premises Liability and Criminal Assaults (this index)

CROSS CLAIMS

CROSS-EXAMINATION

CUSTODY OF CHILDREN

DAMAGES
see also AIDS; Closing Argument; Punitive Damages (this index)

DEATH BY WRONGFUL ACT
see also Wrongful Death (this index)

DEATH PENALTY

DEDUCTION

DEFAMATION

DEFAULT JUDGMENT

DEFENSES
see also Government Contractor Defense; Proximate Cause (this index)

DEMOGRAPHICS

DEMONSTRATIVE EVIDENCE

DEPOSITIONS

DESIGN DEFECTS

DIAGNOSIS

DIRECT EXAMINATION, MASTERING

DIRECTED VERDICT

DISABILITY

DISCOVERY

DISCRIMINATION
see also Americans With Disabilities Act; Arbitration; Civil Rights Actions; Title VII (this index)

DISMISSAL OF ACTION
see also Voluntary Dismissal (this index)

DISTRICT OF COLUMBIA

DIVORCE

DNA IDENTIFICATION
see Evidence (this index)

DOCTORS
see Physicians and Surgeons (this index)

DOCUMENTARY EVIDENCE

DOCUMENTS

DUE CARE
see Duty of Care (this index)

DUE PROCESS OF LAW

DUTY OF CARE

EARNINGS

EARTHQUAKES

ECONOMIC LOSS

ELECTRICITY

ELECTRONICS COMMUNICATIONS PRIVACY ACT

E-MAIL

EMBEZZLEMENT

EMINENT DOMAIN

EMOTIONAL DISTRESS
see also AIDS

EMPLOYMENT RELATIONSHIP
see also Americans with Disabilities Act; Arbitration; Civil Rights Act (this index)

ENTRY UPON LAND
see Inspection (this index)

ENVIRONMENTAL CONTROL

ERIE DOCTRINE

ESTOPPEL

ETHICS
see also Civility (this index)

EVIDENCE
see also Admissions; Burden of Proof; Computers; Experts; Federal Rules of Evidence; Demonstrative Evidence; Depositions; Documentary Evidence; Preserving Issues for Appeal (this index)

EXCESS INSURANCE

EXCESSIVE VERDICTS

EXHIBITS

EXPERIMENTS

EXPERTS
see also Cross-Examination; Preparing Expert Witness; Psychologists (this index)

FAIR CREDIT REPORTING ACT

FALSE CLAIMS ACT

FAX TRANSMISSIONS

FEAR OF AIDS
see AIDS (this index)

FEDERAL AVIATION ACT

FEDERAL COURTS

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA)

FEDERAL JURORS

FEDERAL PREEMPTION

FEDERAL RULES OF BANKRUPTCY

FEDERAL RULES OF CIVIL PROCEDURE

FEDERAL RULES OF EVIDENCE

FEDERAL TORT CLAIMS ACT

FEES
see also Attorneys' Fees (this index)

FETAL DISTRESS

FIFTH AMENDMENT

FLOODS

FOCUS GROUPS

FORESEEABILITY
see also Premises Liability and Criminal Assaults (this index)

FORFEITURE

FORMS

FORUM, CHOICE OF

FORUM NON CONVENIENS

FOURTEENTH AMENDMENT

FRANCHISES

FRAUD

FREEDOM OF SPEECH

GOLF INJURIES

GOOD FAITH

GOVERNMENT CONTRACTOR DEFENSE

HABIT AND CUSTOM EVIDENCE

HEALTH CARE IMPROVEMENT ACT

HEARSAY

HEART INJURIES FROM BLUNT CHEST TRAUMA

HEDONIC DAMAGES

HISTORICAL PHOTOGRAPHS

HIV
see AIDS (this index)

HOSPITAL RECORDS

HOSPITALS
see also Hospital Records (this index)

HOTELS

HOUSING

ILLINOIS

IMAGE, TRIAL LAWYERS'

IMMUNITY

IMPEACHMENT

INCOME TAX

INDEMNITY

INDEPENDENT CONTRACTOR

INDICTMENT

INDUSTRIAL INJURIES

INFANTS
see also Children (this index)

INFERENCES

INSPECTION

INSTRUCTIONS TO JURY

INSURANCE

INTENTIONAL ACT

INTEREST ON MONEY
see Prejudgment Interest (this index)

INTERLOCUTORY APPEAL

INTERNATIONAL LAW

INTERNET

INTERROGATORIES

INTERVENTION

INVITEE

JONES ACT

JUDGES

JUDGMENT

JURISDICTION

JURY
see also Argument (this index)

JURY SELECTION
see also Focus Groups; Voir Dire Examination (this index)

JURY TRIAL

JUST COMPENSATION TAKING BY GOVERNMENT

LAND

LANDLORD AND TENANT

LAW FIRMS

LAW OF THE CASE

LAW SCHOOL EXAM

LAWYERS
see Attorneys (this index)

LEADING QUESTIONS

LEGAL CONCLUSIONS

LEGAL MALPRACTICE

LEGAL WRITING

LIABILITY

LIBEL
see Defamation (this index)

LIFE EXPECTANCY

LOGIC

LONG-ARM STATUTE

LOSS OF ENJOYMENT OF LIFE

MALPRACTICE
see also Medical Malpractice (this index)

MANDAMUS

MANUFACTURER'S DIRECT LIABILITY

MANUFACTURING DEFECTS

MAPS, CHARTS, AND GRAPHS

MARITAL PROPERTY

MARITIME LAW

MEDIA

MEDIATION

MEDICAL DEVICES

MEDICAL ILLUSTRATIONS

MEDICAL MALPRACTICE
see also Malpractice (this index)

MEDICAL TREATMENT

MEDICAL WITNESS

MICHIGAN
see also Premises Liability and Criminal Assaults (this index)

MILK PRODUCERS

MISTRIAL

MODELS

MONTREAL INTERIM AGREEMENT

MULTIDISTRICT LITIGATION

MUNICIPAL CORPORATIONS

NATIONAL TRANSPORTATION SAFETY BOARD

NEGLIGENCE

NEGLIGENT OPERATION OF AUTOMOBILE

NEGOTIATION

NEW JERSEY

NEW YORK

NO-FAULT
see Automobiles; Insurance (this index)

NOTES

NULLIFICATION ATTITUDE

NURSES

OBJECTIONS

OBSTETRICS

OFFER OF PROOF

OFFERS OF JUDGMENT
see Settlement (this index)

OPENING STATEMENT
see also Argument (this index)

OPINION EVIDENCE
see Experts (this index)

PAIN AND SUFFERING

PARALEGALS

PARENT

PARTNERSHIP

PASSENGERS

PATENT INFRINGEMENT

PEREMPTORY CHALLENGES
see Jury Selection (this index)

PERJURY

PERSONAL INJURIES
see also various types of injuries throughout this index

PERSUASION

PHOTOGRAPHS

PHYSICAL EVIDENCE

PHYSICAL EXAMINATION

PHYSICIANS AND SURGEONS
see also Medical Malpractice (this index)

PICTURESQUE SPEECH
see Word Pictures (this index)

PLEADINGS

POLICE

POLICE REPORTS

PRACTICE OF LAW

PREEMPTION
see Federal Preemption (this index)

PREJUDGMENT INTEREST

PREMISES LIABILITY AND CRIMINAL ASSAULTS

PREPARATION
see also Focus Groups (this index)

PREPARING EXPERT WITNESS
see also Experts (this index)

PRESERVATION OF EVIDENCE
see Evidence (this index)

PRESERVING ISSUES FOR APPEAL

PRETRIAL CONFERENCE

PRETRIAL PROCEDURE

PRIVILEGED COMMUNICATIONS

PRODUCTS LIABILITY
see also Medical Devices (this index)
PROOF
see Evidence (this index)
PROPERTY RIGHTS
PROPRIETOR
PROSECUTING ATTORNEYS
PROSECUTION
PROTECTIVE ORDERS
PROXIMATE CAUSE
PSYCHIATRIST
PSYCHOLOGISTS
PUBLIC OFFICIALS
PUBLIC POLICY
PUBLIC RELATIONS
PUNITIVE DAMAGES
see also Damages (this index)
QUESTIONS OF LAW
QUI TAM ACTIONS
RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)
RAILROADS
RAILWAY LABOR ACT
RAPE
REAL PROPERTY
REASONING
RECKLESS ACTS
REHABILITATION
REMAND
REMOVAL TO FEDERAL COURT
REQUESTS TO ADMIT FACTS
see Admissions (this index)
RES IPSA LOQUITUR
RESELLERS
see Products Liability (this index)
RESPONDEAT SUPERIOR
RESTAURANT
RICO
see Racketeering Influenced and Corrupt Organizations Act (RICO) (this index)
RULE 11 OF FEDERAL RULES OF CIVIL PROCEDURE
RULES OF EVIDENCE
see Federal Rules of Evidence (this index)
SCIENTIFIC FACTS
SCIENTIFIC WITNESSES
SEAMEN
see Jones Act (this index)
SEARCH AND SEIZURE
SEIZURE
see Search and Seizure (this index)
SENTENCING
SERVICE OF PROCESS
SETTLEMENT
SETTLEMENT EVALUATION AND NEGOTIATION
SEXUAL HARASSMENT

SIGNATURE

SIMPLIFIED LANGUAGE

SLANDER
see Defamation (this index)

SMOKING
see Tobacco (this index)

SOCIAL HOST

SOCIETY, LOSS OF

SOLE PROXIMATE CAUSE DEFENSE
see Proximate Cause (this index)

SPOLIATION
see Evidence (this index)

STATE COURTS

STATUTES

STRIKING EVIDENCE

STRUCK JURY SYSTEM

STRUCTURED SETTLEMENTS

STUDENTS AND TEACHERS

SUBPOENAS

SUMMARY JUDGMENT

SUMMATION

SUPREME COURT OF NEW YORK

SURVEILLANCE

TAPE RECORDINGS

TELECOMMUNICATIONS

TELEMEDICINE

TELEPHONES

TESTIMONY

THEORY OF CASE

THEORY Z

THERMOGRAMS

TIME

TITLE VII
see also Arbitration; Civil Rights Actions (this index)

TOBACCO

TORTS

TOXIC SUBSTANCES

TRESPASS

TRESPASSERS

TRIAL
see also Alternative Dispute Resolution; Closing Argument; Opening Statement; Witnesses (this index)

TRIAL LAWYERS

ULTIMATE FACTS

UNAUTHORIZED PRACTICE

UNITED STATES

VENUE

VERDICTS

VICARIOUS LIABILITY

VIDEOTAPE

VOIR DIRE EXAMINATION
see also Focus Groups; Jury Selection (this index)

VOLUNTARY DISMISSAL

WAIVER

WARSAW CONVENTION TREATY

WASHINGTON

WETLANDS

WILLFUL AND WANTON

WITNESSES
see also Cross-Examination; Direct Examination, Mastering; Experts; Impeachment; Privileged Communications (this index)

WORD PICTURES

WORDS AND PHRASES

WORK PRODUCT PRIVILEGE
see Discovery (this index)

WORKERS' COMPENSATION

WRONGFUL DEATH
see also Death by Wrongful Act (this index)

WRONGFUL DISCHARGE
see Employment Relationship (this index)

X-RAYS

ZONING

Index Supplement

REFERENCES ARE TO YEAR AND PAGE OF ANNUAL VOLUMES

ACCIDENT REPORT
military mishaps
Aircraft Mishap Report, **91-138, 91-150**
hearsay exception, **91-135**
NTSB reports, compared, **91-142**
pilot error, **91-138**
National Transportation Safety Board Reports
conflicts among Federal Rules, **91-144, 91-151**
FAA prohibition on admissibility, **91-142, 91-144 et seq.**
probable cause conclusions, government litigants, **91-151, 91-152**
Rule 803(8)(C), Federal Rules of Evidence, **91-151**
Rule 803(8), Federal Rules of Evidence
fact findings, **91-140**
hearsay exception, **91-139**
legislative intent, **91-140**
NTSB reports, **91-142**
opinions and conclusions in factual reports, **91-137**
trustworthiness of opinions, assessment, **91-141**

ACCOUNTING
expert witnesses, accountants as
generally, **97-463**
commentary, **97-482**
conclusion, **97-483**
conflicts of interest, **97-480**
engagement terms and modifications, **97-476**
rationales, **97-470**
reports, **97-478**
standards, **97-465 et seq.**
statements of auditing standards, **97-463**
statements on standards for accounting and review services, **97-463**
terminology and preconceived notions, **97-473**
partnerships
actions against general partner, prerequisite, **94-307**
Securities Exchange Act, liability of accountants under
generally, **97-569**
commentary, **97-571**

ACQUIRED IMMUNE DEFICIENCY SYNDROME
see AIDS (this index)

ACTION
evidence spoliation, **94-519**

ADA
see Americans with Disabilities Act (this index)

ADMIRALTY LAW
see also Maritime Law (this index)
damages
limitations of Shipowners' Liability Act, **93-115**
Jones Act
seamen, meaning of
generally, **92-533**
conclusion, **97-565**
history of Jones Act, **97-532**
jurisdiction
navigable waters, what constitutes, **94-61, 95-1**
multiple defendants
nonsettling defendants, **95-285**
pro tanto method, explained, **95-285**
recreational vessels, duties and liabilities
persons in distress at sea, **93-385**
river
breach of bank causing flood, **94-61**
breach of tunnel causing flood, **95-1**
vessels
preferential treatment of owners, **95-1**
wrongful death
loss of society, **93-294**

ADMISSIBILITY OF EVIDENCE
see also Attorney-Client Privilege; Privileged Communications (this index)
computer-generated animation, **92-434, 92-437**
DNA test results
generally, **97-594**
commentary, **97-600**
expert testimony
court's discretion, **95-101**
government regulations, products liability case, **91-208**
post-manufacture safety changes, **97-70**
private investigator's observation of injured witness, **91-89**

ADMISSIONS
requests for admission of facts
alternating negative form, **94-4**
demonstrative evidence, **98-301**
discovery distinguished, **94-6**
drafting, **94-1**
genuineness of documents, **94-8**
improper uses, **94-6**
responses, **94-10**
ultimate issue, **94-7**
withdrawal and amendment of admissions, **94-13**

ADOPTION
custody
transfer from adoptive parents, **95-255**
emotional distress
liability of attorney, **95-355**

AERIAL PHOTOGRAPHS
demonstrative evidence, **98-308**

AFFIDAVIT
protective orders, **93-217**

AGE DISCRIMINATION
prejudgment interest, **98-68**

AGENCY
Boy Scouts of America
scout leader, **92-309**
federal agencies
discovery, **93-76**
franchises, **97-267**
commentary, **97-268**
punitive damages
principal's liability, **94-355, 94-505**

AIDS
blood bank liability, **97-292**
commentary, **97-293**
discrimination in provision of health services, **99-461**
fear of contracting
generally, **99-362 et seq.**
actual exposure requirement, **99-366**

AIDS—Cont'd
fear of contracting—Cont'd
damages, **99-376**
emotional distress claims, generally, **95-375, 99-365**
expert testimony, **99-370**
frivolous claims concerns of courts, **99-372**
probabilities, **99-379**
reasonableness standard, **99-373, 99-377**
window of anxiety, **99-376**
possibility of exposure to HIV
negligent infliction of emotional distress, **95-375**
transmission modes, judicial notice, **99-369**

AIR BAGS
federal preemption
National Traffic and Motor Vehicle Safety Act of 1966, **97-269**

AIR TRAFFIC CONTROLLERS
Federal Tort Claims Act, **92-376**
negligence
failure of proof, **92-595**

AIRLINES
airline deregulation act of 1978, **95-128**
frequent flyer program
retroactive restriction of benefits, **95-128**

AIRPLANE ACCIDENTS
generally, **97-133**
see also Warsaw Convention Treaty (this index)
air traffic controller tapes, preservation, **94-477**
damages
pain and suffering, precrash, **94-199**
precrash suffering, **94-199**
Federal Tort Claims Act
midair collisions, **94-439**
midair collision
anticollision devices, effectiveness, **94-432**
contributing factors, **94-431**
fact summary of example collision, **94-436**
government liability, **94-439**
preservation of wreckage
practical suggestions, **94-523**
Rule 34, Federal Rules of Civil Procedure, **94-481**

AIRPLANE ACCIDENTS—Cont'd
visual flight rules
midair collisions, **94-431**
warnings
Traffic Alert and Collision Avoidance System (TCAS), **94-496**

ALABAMA
insurance
selection of counsel under reservation of rights, **91-167**

ALCOHOL
delirium tremens, trauma-induced
generally, **99-384**
cause of death, **99-381**
employees suffering from alcoholism, **96-494**

ALTERNATIVE DISPUTE RESOLUTION
see also Arbitration (this index)
Commercial Division of Supreme Court, **98-62**
insurance litigation management costs, **91-180**
mediation, **98-393**
voluntary and mandatory, **95-38**

AMENDMENTS
requests for admission of facts
effect of failure to respond, **94-17**
responses, changing, **94-13**

AMERICANS WITH DISABILITIES ACT
see also Arbitration; Employment Relationship (this index)
AIDS sufferers, disability status of, **99-462**
alcoholic employees, **96-494**
disability determinations, **99-462**
health services, discrimination in provision of, **99-461**
smoking restrictions in public places, **95-358**
summary judgment, resolution of litigation by, **99-80 et seq.**

ANATOMICAL MODELS
demonstrative evidence, **98-310**

APPEAL AND ERROR
see also Preserving Issues for Appeal (this index)
arguments
acknowledgement of court, **91-268, 91-277**

APPEAL AND ERROR—Cont'd
arguments—Cont'd
arrogant judge, responses, **91-281**
blunt judge, challenging, **91-280**
deferential responses in service of client's cause, **91-282**
expiration of argument time, **91-275**
familiarity with judges hearing appeal, **91-268**
flexibility and innovation, **91-272**
forum non conveniens, Air France hijacking case, **91-277**
impact on decisions, statistical studies, **91-265**
importance, **91-264**
issues addressed, focus, **91-270**
issues requiring no argument, **91-275**
judicial signals to argue issue, **91-276**
judicial signals to limit argument, **91-274**
merits of case, belief in, **91-274**
number of oral advocates, **91-273**
Oral Advocacy, Ten Commandments, **91-268**
orienting review of facts and issues, **91-276**
preparation, **91-269**
quality of argument, grading statistics, **91-267**
questions and responses, **91-272**
responses to blunt judges, **91-276**
speaking voice, **91-273**
suggestions, **91-268**
termination, timeliness, **91-273**
waiver, **91-274**
written briefs, comparison, **91-264, 91-265**
attorney-client privilege, interlocutory appeal to protect, **99-71 et seq.**
criminal deviate conduct, **93-601**
interlocutory appeal, **99-71 et seq.**
mandamus to protect privileged communication, **99-71 et seq.**
privileged communication, interlocutory appeal to protect, **99-71 et seq.**
rape, **93-601**
search and seizure
generally, **97-444**
commentary, **97-449**
Tyson case, **93-601**

ARBITRATION
generally, **95-38**
see also Alternative Dispute Resolution (this index)
adhesive arbitration provisions, **99-177**
agreements to arbitrate, executing, **99-172**

ARBITRATION—Cont'd
contracts, arbitration provisions in, **99-170 et seq.**
cost-effectiveness, **95-38**
employment claims
generally, **99-170 et seq.**
adhesive arbitration provisions, **99-177**
agreements to arbitrate, executing, **99-172**
applicants' claims, **99-175**
collective bargaining agreements, effect of, **99-172, 99-465 et seq.**
contract of employment, arbitration provision in, **99-176**
discrimination claims, **99-170**
Federal Arbitration Act, applicability of, **99-180**
frivolous cases, **99-171**
handbooks, arbitration provisions in, **99-173**
overreaching arbitration provisions, **99-177**
statutory employment claims, **99-170**
substantive rights, arbitration provisions abrogating, **99-177**
Federal Arbitration Act, application to employment arbitration, **99-180**
frivolous claims, **99-171**
overreaching arbitration provisions, **99-177**
substantive rights, arbitration provisions abrogating, **99-177**

ARGUMENT
see also Closing Argument; Focus Groups; Opening Statement (this index)
ad hominem argument, **99-211**
adversaries' arguments, anticipating, **99-332**
appeals
acknowledgement of court, **91-268, 91-277**
arrogant judge, responses to, **91-281**
blunt judge, challenging, **91-280**
deference in service of client's cause, **91-282**
expiration of argument time, **91-275**
familiarity with judges hearing appeal, **91-268**
flexibility and innovation, **91-272**
forum non conveniens, Air France highjacking case, **91-277**
impact on decisions, statistical studies, **91-265**
importance, **91-264**
issues addressed, focus, **91-270**
issues requiring no argument, **91-275**
judicial signals to argue issue, **91-276**
judicial signals to limit argument, **91-274**
merits of case, belief in, **91-274**
number of oral advocates, **91-273**
Oral Advocacy, Ten Commandments, **91-268**

ARGUMENT—Cont'd
appeals—Cont'd
orienting review of facts and issues, **91-276**
preparation, **91-269**
quality of argument, grading statistics, **91-267**
questions and responses, **91-272**
responses to blunt judges, **91-276**
speaking voice, understanding of, **91-273**
suggestions, **91-258**
termination, timeliness, **91-273**
waiver, **91-274**
begging the question, **99-208**
conclusions and premises, **99-207**
deduction, **99-198 et seq.**
deductively valid argument, **99-202**
empathy, creating, **99-330**
equivocation, **99-211**
extrapolative reasoning, **99-205**
fallacies, logical, **99-207**
fallacious argument, **99-201**
hair splitting, **99-213**
inductively valid argument, **99-203**
interrogatories
sample jury verdict forms, **98-199**
special interrogatory, alluding to how juries should answer, **98-98**
juxtaposition, **99-209**
logic, **99-198 et seq.**
questionable premises, **99-209**
rationalization, **99-214**
reasoning, **99-198 et seq.**
slippery slope arguments, **99-210**
stereotyping, **99-208**
straw man argument, **99-208**
transformation, **99-209**

ASBESTOS
damages, **93-480**

ASSAULTS
see Premises Liability and Criminal Assaults (this index)

ASSUMPTION OF RISK
similar to open and obvious danger, **95-76**

ATTORNEY-CLIENT PRIVILEGE
generally, **99-69 et seq.**
abolition proposals, **99-69**
appeal from denial of privilege in discovery, **99-71 et seq.**
cell phone conversations, **99-47**
cordless telephone conversations, **99-46**
crime-fraud exception, **98-418, 99-70**
discovery, denial of privilege in, **99-71 et seq.**
Electronics Communications Privacy Act, **99-46, 99-51**
e-mail communications, protection of, **99-42 et seq.**
erosion of doctrine, **94-314**
ethical basis of privilege, **99-43**
expectation of privacy, **99-44**
fax transmissions, **99-47**
privacy, expectation of, **99-44**
telephone conversations, **99-46**

ATTORNEYS
see also Attorneys' Fees; Prosecuting Attorneys (this index)
competency
    representation, ability to handle, **98-347**
confidentiality of attorney-client communications, **99-43**
consultation with client, trial preparation, **98-218**
contracts for employment
    avoiding malpractice suits, system of checks and balances, **98-351**
    defendant's contingency fees, **94-326**
    structured settlements, time for paying fees, **94-114**
defense
    excess judgment liability, **92-481**
discharge
    law firm partner, **98-81**
    rights, **92-525**
disciplinary proceedings
    bad faith of agency, civil rights violation, **94-501**
disqualification
    writ of mandamus, **93-278**
duties
    Code of Trial Conduct, American College of Trial Lawyers, **95-308**
expert consultants
    environmental, cooperation, **94-31**
Fair Credit Reporting Act violations in litigation investigation, **99-468 et seq.**
initial interview with client, limiting risk of malpractice suit, **98-346**
interstate practice, validity of fee agreements, **99-226 et seq.**

ATTORNEYS—Cont'd
law firm breakup
generally, **97-567**
commentary, **97-568**
law firms
discharge of partner, **98-81**
leaving, **92-445**
legal profession's problems
associates' training, **94-319**
attorney-client privilege, erosion, **94-314**
billing methods, **94-324**
career dissatisfaction, **94-317**
collegiality, **94-316**
economic pressures, **94-321**
ethical standards, **94-321**
judge-lawyer misunderstandings, **94-321**
law school education, **94-320**
malpractice
failure to use physical examination, **95-112**
limiting risk of lawsuit, **98-345**
obtaining other counsel, **92-272**
paralegals, use of, **98-86**
third-party claims for indemnity, **98-84**
trial counsel tactics, **92-128**
mediation, **98-393**
negotiations, tactics, **98-368**
practice of law
judge's advice to young lawyer, **94-31**
privileged communication
clients, erosion of privilege, **94-314**
pro bono representation
mandatory, disadvantages, **94-315**
pro bono work, **92-153**
referrals
rights of referral lawyer, **96-481**
rejection of client, limiting risk of malpractice suit, **98-346**
settlements
structured, time for receipt of fees, **94-114**
trial attorneys
Code of Trial Conduct, American College of Trial Lawyers, **95-309**
communicate visually, **93-553**
judge's advice to young lawyer, **94-31**
unauthorized practice, **99-226 et seq.**

ATTORNEYS—Cont'd
writing
accurate articulation, **91-154**
briefs, **91-156**
clarity, **91-154, 91-161**
drafting, **91-159**
intended purposes and audience, **91-155**
language choices, **91-155**
negotiations, **98-382**
nouns, verbs, and adjectives, **91-158**
positive vs. negative assertions, **91-159**
spelling in legal documents, **91-160**
style, **91-160**
verbosity, **91-136, 91-137**

ATTORNEYS' FEES
see also Insurance (this index)
billing clients for services
alternative fee arrangements, **94-325**
computerized time-keeping, **91-185, 91-194**
contingent defense fees, **94-326**
experience as factor in fixing fees, **91-192**
fixed hourly charges, **94-324**
insurance company clients, **91-184**
minimum billable hours, **91-874**
time-keeping factors, **91-185, 91-194**
civil rights actions
prevailing party, **93-463, 93-678**
Civil Rights Attorney's Fees Award Act of 1976, **95-134**
class action suits
generally, **91-76 et seq., 95-361**
attorney as claimant, **91-81**
class benefit as standard, **91-79, 91-82, 91-85**
common fund doctrine, **91-76, 91-79**
contingent fees, **93-664, 97-432**
fee petition preparation, **91-82**
fee shifting rules, applicability, **91-77, 91-79**
limitation on potential liability, **91-84**
lodestar method, **91-80, 97-103, 97-432**
market risk test, **91-82, 91-83**
meritless suits, disincentive, **91-84**
per diem system, effect, **91-86**
percentage of recovery principle, **91-85**
proofs, **91-83**

ATTORNEYS' FEES—Cont'd
class action suits—Cont'd
public interest factor, **91-82**
reasonableness requirement, **91-79**
reduction of fees, **92-427**
risk compensation, **91-81**
subsidy of unsuccessful suits, **91-84**
Supreme Court rule, **91-79, 91-85**
congressional intent, **91-79**
contingent fees
defense arrangements, **94-326**
hourly rate, comparison, **95-143**
modification by court, **94-215**
noncompliance with rule of professional responsibility, **97-254**
commentary, **97-255**
reduction by court, **94-215**
discovery, federal agencies, **93-79**
environmental cases
fee-shifting, **92-427**
factors
reasonableness, **91-459**
fee shifting rules
American Rule, **91-77**
common fund cases, applicability, **91-79**
fee petition preparation time, **91-92**
interest for delayed payment, **91-78**
interested parties, **91-81**
lodestar approach, **91-77**
lodestar formula, **91-78**
public benefit factor, **91-79, 91-82**
reasonable time spent, **91-77**
risk compensation, contingent fee cases, **91-81**
risk factor, **91-78**
risk multiplier inducing meritless claims, **91-84**
statutory fee shifting factors, **91-77**
subsidy of unsuccessful suits, **91-84**
hourly rates, **91-184**
computer enhancements, effect, **91-185**
computerized plumbing bill, comparison, **91-194**
contingent fee, comparison, **91-186, 95-143**
lodestar multiplication system, critique, **91-85**
productivity, time equation, **91-197**
insurance litigation. See Insurance (this index)
interstate practice and, **99-226 et seq.**

ATTORNEYS' FEES—Cont'd
notification of fee-splitting, **96-481**
payment demands, **92-464**
per diem basis
common fund cases, **91-86, 91-87**
criticism, **93-231**
lodestar improprieties, **91-85, 91-87**
percentage basis, award by court, **94-51**
reasonableness, **91-459**
burden, **91-459**
rule of professional responsibility, contingent fees allowed despite noncompliance with, **97-254**
commentary, **97-255**
structured settlements, **94-114, 96-481**
tax consequences, **94-116**
time for payment of fees, **94-114**
time spent on case as factor
court rejection of contingent fee agreement, **94-215**
time spent on case as factor, 91-459, **91-459**
time-keeping
methods, **92-466**
value billing
assessing value, **93-234**
blended hourly rate, **93-240**
budgeting system, **93-257**
fixed fee arrangements, **93-238**
implementing, **93-237**
incentives, **93-235**
lawyer-corporate client relationship, **93-232**
managing partner's perspective, **93-247**
modified contingency arrangements, **95-241**
relationship to contingency arrangements, **95-143**
reward system, **93-258**
transition, **93-252**
volume discount arrangements, **93-392**

AUTOMOBILES
air bags
National Traffic and Motor Vehicle Safety Act of 1966, preemption, **97-269**
insurance
ambiguities in policy, construction, **91-120**
choice of compensation system, **91-184**
construction of policy against insurer, **91-119**

AUTOMOBILES—Cont'd
insurance—Cont'd
cost problems, **91-171, 91-182**
cost-containment measures, **91-173**
cost-induced cutbacks, **91-171, 91-182**
insurance affordability problems, **91-182**
internal cost controls, **91-184**
no-fault insurance plans, **91-182**
no-fault proposals, **91-182**
no-fault replacement of tort recovery system, **91-184**
notice requirement and underinsured motorist recovery, **91-332**
policy coverage and exclusion clauses, **91-116**
punitive damage coverage, **91-202**
reparations, **91-182**
restrictions on payments for minor injuries, **91-183**
state-run insurance proposals, **91-172**
underwriting loss increases, effects, **91-171**
unlicensed minor as covered person, **91-116**
parental immunity
negligent operation, **92-276**
personal injuries
heart damage after blunt chest trauma, **91-249**

AVIATION
disaster litigation, **93-27, 95-205**
insurance, conflicts of interest, **93-1**

AVIATION LAW
see also Airplane Accidents (this index)
air traffic control negligence, **92-595**
airplane accidents
investigation, **95-205**
midair collisions, **94-429**
damages
precrash suffering, **94-199**
terrorist bombing, **94-226**
Warsaw Convention
terrorist bombing, **94-226**

BENCH CONFERENCES
preserving issues for appeal, **98-36**

BIBLIOGRAPHY
insurer and counsel in defense of claims, relationship, **91-199**

BIBLIOGRAPHY—Cont'd
premises liability for third-party assaults, **91-42**

BLACKBOARDS
demonstrative evidence, **98-310**

BLOOD BANKS
AIDS, **97-292**
commentary, **97-293**

BOY SCOUTS OF AMERICA
agency
scout leader, **92-309**

BRIEF
drafting, **91-156**

BUILDINGS
impact fees, imposition by local governments, **94-187**

BURDEN OF PROOF
see also Heart Injuries From Blunt Chest Trauma (this index)
argument, explaining burden in, **99-13, 99-25, 99-246**
closing argument, **98-173 to 98-175**
employment discrimination claims, **99-447**
police use of excessive force, instructions to jury, **91-112**
sole proximate cause defense, **97-230**

BYLAWS
country clubs
generally, **97-587**
commentary, **97-590**

BYSTANDERS
emotional distress
deaths of children, **92-389**

CALIFORNIA
premises liability for third-party assaults foreseeability and duty, **91-28, 91-71**

CAMERAS IN COURTROOM
problems, **94-383, 96-379**

CATASTROPHE LITIGATION
generally, **97-133**

CAUSATION
see Proximate Cause (this index)

CHEMICALS
waste site cleanups
    attorney-consultant relationship, **94-18**

CHILDBIRTH
see Obstetrics (this index)

CHILDREN
see also Infants; Witnesses (this index)
adoption
    transfer of custody, **95-255**
custody
    best interest of child, **95-255**
landowner's duty to
    swimming pools, **96-486**
parent-child communications, privilege for, **99-352 et seq.**
parent-child immunity
    availability in tort cases, **92-521**
    negligent operation of automobile, **92-276**
    scope, **94-529**
secondhand smoke
    parent's liability, **94-529**
settlement, power of court to compel
    generally, **97-112**
    commentary, **97-118**
videotaped statements, use of, **99-67**
witnesses, children as. See Witnesses (this index)
wrongful death action
    dollar amount of awards, case list, **91-108**
    excessive awards for death, **91-105**
    loss of society, recovery of damages, **91-106**
    stepchildren, **91-316**

CHOICE OF FORUM
see Forum, Choice of (this index)

CHOICE OF LAWS
punitive damages, availability, **94-294**
tort cases, **92-211**
wrongful death actions, automobile accident, **93-639**

CIGARETTES
see Tobacco (this index)

CITIES
civil rights actions
bifurcation, **93-503**

CIVIL RIGHTS ACTIONS
see also Arbitration (this index)
absolute immunity, **99-338**
age discrimination, **98-68**
attorney disciplinary agency harassment, **94-501**
attorneys
prosecutors, action against, **95-121**
attorneys' fees, denied, **93-463**
bifurcation, **93-503**
burden of proving discrimination, **99-447**
Civil Rights Act
retroactivity, **92-460**
Civil Rights Attorney's Fees Award Act of 1976
award of fees when nominal damages, **95-134**
color of state law, action under
attorney disciplinary agency harassment, **94-501**
employee history files in discrimination cases, **91-283 et seq.**
immunity, **99-338**
instructions
police use of deadly force, **91-112**
judicial immunity, **99-334 et seq.**
police use of excessive force
relevance of prior or subsequent occasions, **95-270**
prevailing party
attorneys' fees, **93-463, 93-678**
defined, **93-463**
prosecuting attorneys, immunities, **93-103**
qualified immunity, **99-338**
sexual harassment claims, **99-439 et seq.**
summary judgment, resolution of employment discrimination litigation by, **99-80 et seq.**
Title VII of Civil Rights Act of 1964
co-employee liability, **94-509**

CIVILITY
generally, **97-360, 99-187 et seq.**
ad hominem argument, **99-211**

CIVILITY—Cont'd
commentary, **97-371**
conclusion, **97-370**
conscience, listening to, **97-367**
image of trial lawyers generally, **99-185**
judges, **97-364**
law schools, **97-363**
mentor, being, **97-365**
organizations, **97-369**
role model, being, **97-365**
socializing, **97-368**
winning, **97-369**

CLASS ACTIONS
Airline Deregulation Act, breach of contract class action, **97-591**
attorneys' fees
    approach, judicial discretion lodestar approach, **91-80**
    attorney as claimant, **91-81**
    class benefit as standard, **91-79, 91-82, 91-85**
    common fund doctrine, purpose, **91-79**
    contingent fees, **93-664, 97-432**
    disincentive for meritless suits, **91-84**
    federal standards, **91-79, 91-85**
    fee petition preparation, **91-82**
    limitation on potential liability, **91-84**
    lodestar method, **95-432**
    market risk test, **91-82, 91-83**
    per diem system, effect, **91-86**
    percentage of recovery principle, **91-85**
    proofs, **91-83**
    public interest factor, **91-82**
    reduction, **92-427**
    risk compensation, **91-81**
    subsidy of unsuccessful suits, **91-84**
    Supreme Court rule, **91-79, 91-85**
federal standards
    attorney fee calculations, **91-79, 91-85**
fees
    lodestar method, **97-103**
RICO, proof of fraud, **98-95**

CLOSING ARGUMENT
generally, **98-166**
see also Argument (this index)

CLOSING ARGUMENT—Cont'd
analogies, **98-183**
anatomy of closing, **98-170**
appendices, **98-191**
attacking opponent's case, **98-187**
basic rules, **98-190**
basis in evidence, **93-377**
blame shifting among defendants, **99-7**
burden of proof
    generally, **98-173 to 98-175**
    explaining, **99-13, 99-246**
    submitting, **99-25**
caretaking expenses, explaining, **99-257**
catastrophic injury, damages and, **99-32**
chronological approach, avoiding, Appendix I, **98-194**
consequentialist argument, **94-399**
criminal cases
    consequentialist argument, **94-418**
day-in-the-life video presentation, use of, **99-241**
demand, **98-188**
diminished life expectancy, **99-32**
discovery information, explaining significance of, **99-15**
dollar value of harm caused, **99-257**
earnings, lost, explaining, **99-37, 99-261**
economic and non-economic damages, distinguishing, **99-29**
effect of verdict, remarking on, **94-404**
expert bias, **93-379**
fetal brain damage
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
forgetful witness, credibility of, **99-21, 99-253**
full and fair compensation, **99-27**
future medicals, explaining, **99-257**
impeachment of witness, highlighting on closing argument, **99-253**
inferences, **98-177**
instructions, explaining to jury, **99-10**
instructions to jury, **98-197, Appendix I**
issues, **98-173**
law of the case, **98-188**
length, **98-169**
life expectancy
    generally, **99-9, 99-259**
    calculations, explaining, **99-32**
lost earnings, explaining, **99-37, 99-261**

CLOSING ARGUMENT—Cont'd
missing opinion argument, **99-15**
normal life, damages for loss of, **99-261**
outlines, **93-578**
premises and conclusions, **99-207**
preparation, time to begin, **98-168**
present cash value, explaining, **99-30, 99-258**
proximate cause, explaining, **99-25, 99-246**
punitive and exemplary damages
effect of award, consequentialist analysis, **94-404**
reasoning, appeal to, **98-169**
reference to jury instructions, **93-378**
rhetorical questions, **98-186**
rules, **98-190, 98-191**
send-a-message argument, **94-399**
separate elements of compensation, stressing, **99-8**
severe injuries, dangers in arguing, **99-9**
strong evidence of negligence, conveying, **99-7, 99-14**
structure, **98-171**
substantial damages, arguing for, **99-27**
ten rules, Appendix I, **98-192**
the demand, **98-189**
theory of case, **98-175, 98-193**
transcript, reading from, **94-45**
trial preparation outline, **98-222**
verdict forms, explaining, **99-29, 99-245**
vicarious liability, explaining, **99-26, 99-245**
visual aids, **94-45**
voir dire representations, reminding jurors of, **99-8, 99-38**

COMMERCIAL DIVISION
Supreme Court of New York, **98-55**

COMPARATIVE FAULT
open and obvious danger distinguished, **95-76**

COMPUTERS
computer-generated animation, **92-434**
admissibility, **92-437**
authentication, **92-438**
demonstrative, **92-444, 98-311**
expert witnesses, **92-440**
reconstructions, **92-436**
simulations, **92-436**

COMPUTERS—Cont'd
computer-generated animation—Cont'd
variables, **92-435**
e-mail communications, protection of, **99-42 et seq.**
graphics
demonstrative evidence, **98-311**
law office
hourly billing rates, cost increases, **91-185, 91-194**

CONCLUSIONS
requests for admission of facts, **94-6**

CONDOMINIUM ASSOCIATIONS
duties to residents, **93-119**

CONFLICTS OF INTEREST
accountants as expert witnesses, **97-480**
aviation insurance, **93-1**
insurance
aviation insurance, **93-1**
defense counsel, **91-169**
multiple insured, representing, **93-1**
legal malpractice, limiting risk, **98-349**
multiple insured, representing, **93-1**

CONSORTIUM, LOSS OF
see Society, Loss of (this index)

CONSTITUTIONAL LAW
see also Due Process of Law (this index)
criminal cases
voir dire inquiry into pretrial publicity, **91-242**
double jeopardy
punitive damages, **94-276**
excessive fines clause
punitive damages, **94-272**
fair trial versus free press
cameras in courtroom, **94-391**
federal preemption
right to jury trial, **95-370**
free speech
judicial candidates, **93-655**
media coverage of trials
cameras in courtroom, **94-391**

CONSTITUTIONAL LAW—Cont'd
public trial, sixth amendment
cameras in courtroom, **94-393**
punitive damages, **94-272**
search and seizure, students and teachers, **97-118**
commentary, **97-123**
students and teachers, **97-120**
commentary, **97-123**
takings clause
impact fees, real estate development, **94-187**
punitive damages, **94-278**

CONSULTANT
environmental cleanups
attorney-consultant relationship, **94-18**

CONSULTATION WITH CLIENT
trial preparation outline, **98-218**

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT OF ILLINOIS
medical profession, **92-566**

CONTINUING OBJECTIONS
preserving issues for appeal, **98-31**

CONTRACTS
adhesion contracts, **91-122**
Airline Deregulation Act, breach of contract class action, **97-591**
arbitration provisions in employment contracts, **99-170 et seq.**
questions of law, expert opinions on, **98-160**

CONTRIBUTION
sole proximate cause defense, **97-231**

CONTRIBUTORY NEGLIGENCE
open and obvious danger distinguished, **95-76**
proximate cause, sole proximate cause defense, **97-236**

COUNTERCLAIMS
trial preparation outline, **98-215**

COUNTRY CLUBS
bylaws
generally, **97-587**

COUNTRY CLUBS—Cont'd
bylaws—Cont'd
commentary, **97-590**

COURT
see also Alternative Dispute Resolution (this index)
Commercial Division of supreme court, **98-55**
discretion
admission of expert testimony, **95-101**
per curiam decisions, **95-23**
protection of courts, **98-44**

CREDIBILITY
closing argument, **98-176**
forgetful witness, arguing credibility of, **99-21, 99-253**
laying proper foundation, attacking credibility, **98-244**

CREDIT INVESTIGATION
Fair Credit Reporting Act, litigation investigation activities as subject to, **99-468 et seq.**

CRIMINAL LAW
see also Premises Liability and Criminal Assaults (this index)
Brady disclosures
prosecutorial noncompliance, effect, **94-347**
child pornography law violations, **99-347 et seq., 99-480 et seq.**
closing argument
consequences of verdict, **94-404, 411**
criminal deviate conduct, **93-601**
death penalty cases, voir dire interracial bias questions, **99-477**
death penalty hearing, **99-88 et seq.**
discovery
Brady disclosures, noncompliance, **94-347**
DNA identification, **94-359**
evidence
DNA identification, **94-359**
withholding by prosecution, **94-357**
future dangerousness opinion, **99-88 et seq.**
jury
individual examination of prospective jurors, **91-245, 91-248**
pretrial publicity, collective inquiry on voir dire, **91-242**
perjury of client
ethics and professionalism, **98-286**

CRIMINAL LAW—Cont'd
publicity
sensational cases, **91-246**
Standards for Criminal Justice, voir dire inquiry, **91-243**
voir dire inquiries, limitations, **91-243**
rape
appeal, **93-601**
risk assessment, **99-88 et seq.**
sentence
consequentialist argument to jury, **94-418**

CROSS CLAIMS
trial preparation outline, **98-215**

CROSS-EXAMINATION
generally, **98-118**
advice of judge to young lawyer, **94-42**
asking few questions rather than many, **94-43**
closing argument, importance, **94-45**
collateral cross-examination of expert, **99-266 et seq.**
discrediting misleading cross-examination on redirect, **98-116**
expert
generally, **99-266 et seq.**
administrative vs clinical experience, **99-272**
depositions, use of in developing opinion, **99-274**
forensic work, highlighting, **99-271**
locality of out-of-state expert, **99-272**
professional expert, questions pointing out, **99-271**
hiring an expert witness, **97-11**
malpractice expert, **99-266 et seq.**
medical malpractice expert, **99-266 et seq.**
physicians and surgeons
frequency of testimony as expert, **95-273**

CUSTODY OF CHILDREN
adoption
transfer from adoptive parents, **95-255**

DAMAGES
see also AIDS; Closing Argument; Punitive Damages (this index)
asbestos exposure, **93-480**
caretaking expenses, **99-257**
catastrophic injury, **99-32**

DAMAGES—Cont'd
conflicts of laws
effect of tort reform, **95-140**
day-in-the-life video presentation, use of, **99-241**
deaths on the high seas, **93-442**
diminished life expectancy, **99-32**
disability compensation, **99-35**
disfigurement, compensation for, **99-36, 99-263**
diversity jurisdiction, **97-246, 97-403**
commentary, **97-249, 97-404**
earnings, lost, **99-37, 99-261**
economic and non-economic damages, distinguishing, **99-29**
enjoyment of life
comatose victim, **94-57**
evidence spoliation, **94-519**
excessive awards
reduction of damages, **93-682**
fear of contracting AIDS. See AIDS (this index)
future medicals, **99-30, 99-257**
hedonic
comatose victim, **92-1, 94-57**
hidden damages, presenting case for to jury, **99-149**
large damage awards, preparing jury for, **99-155**
life care plan, **99-259**
life expectancy, **99-9, 99-32, 99-259**
Limitations of Shipowners' Liability Act, **93-115**
lost earnings
high-earnings plaintiffs, **94-426**
lost enjoyment of life
comatose victim, **94-57**
noneconomic damages, **97-87**
commentary, **97-89**
normal life, loss of, **99-261**
pain and suffering
closing argument re, **99-34, 99-263**
opening statement discussion, **99-153**
reduction of damages, **93-682**
personal injury cases
future sequelae, 50 percent probability rule, **91-92**
physiatrician's opinion as to rehabilitation expenses, **99-257**
present cash value, **99-30, 99-258**
prosecuting attorneys, **93-492**
reduction
conscious pain and suffering, **93-682**

DAMAGES—Cont'd
rehabilitation expenses, **99-257**
remittitur
airplane accident, precrash suffering, **94-199**
severe injuries to minor, dangers in arguing, **99-9**
spoliation of evidence, **94-519**
tax consideration
instructing jury, **94-423**
wrongful death
loss of society, **93-93**

DEATH BY WRONGFUL ACT
see also Wrongful Death (this index)
damages
distribution duties, participants' potential liability, **91-319**
intangible damages, **91-106**
minor and unmarried children, awards, **91-108**
minor child, **91-105**
stepchild as heir, **91-316, 91-319**
unemancipated minor child, **91-105**
minor child
average award per parent, case list, **91-108**
excessive awards, **91-105**
illegitimate children, **91-318**
intangible damages, **91-106**
stepchildren, **91-316**
stepchildren, **91-316**

DEATH PENALTY
future dangerousness opinion, **99-88 et seq.**
voir dire, interracial bias questions, **99-477**

DEDUCTION
generally, **99-198 et seq.**

DEFAMATION
doctrine of innocent construction, **93-471**
judicial immunity, **99-334 et seq.**
per quod, **93-471**
per se, **93-471**

DEFAULT JUDGMENT
dismissals without notice, civility, **91-329**

DEFENSES
see also Government Contractor Defense; Proximate Cause (this index)
assumption of risk
    similar to open and obvious danger, **95-76**
open and obvious danger
    similar to assumption of risk, **95-76**
sexual harassment claim investigation by employers, **99-451**

DEMOGRAPHICS
jury selection, **98-255**

DEMONSTRATIVE EVIDENCE
generally, **98-107**
anatomical models, **98-310**
blackboards, **98-310**
computer graphics, **98-311**
computer-generated animation, **92-444, 98-311**
day-in-the-life video presentation, use of, **99-241**
experiments, **98-296, 98-313**
graphs and graphics, **98-311, 98-313**
maps, charts, diagrams, **98-313**
medical illustrations, **98-309**
models, **98-309, 98-310**
photographs, **98-306, 98-308**
planning checklist, **98-302**
preparation, **98-293**
tape recordings, **98-308**
video monitors, multiple, **99-241**
videos, **98-225, 98-307**
visual aids, when to use, **98-297**
x-rays, **98-306**

DEPOSITIONS
generally, **98-323**
assaults on hotel guests
    security director, sample deposition, **91-47**
changes in transcript by witness, **99-474 et seq.**
compelling answers, **92-451**
evidentiary value of, explaining to jury, **99-140**
expert witnesses
    interrogatories as substituting for, **91-101**
hiring an expert witness, **97-7**
instruction not to answer
    privileged information, **92-453**

DEPOSITIONS—Cont'd
instruction not to answer—Cont'd
sanctions, **92-457**
length, **98-333**
manipulated absence of witness, **95-277**
objections
privileged information, **92-453**
sanctions, **92-452**
perjury by client, discovery of, **98-284**
place of making, **98-327**
practice and tactics
instruction not to answer, **92-448**
representing deponent
instruction not to answer, **92-448**
preparation
generally, **98-328**
premises liability, hotel security director, **91-47**
premises liability, witnesses, third-party assaults, **91-35**
saturation techniques, **92-454**
signature, **98-342**
videotape
creating, **93-590**
use at trial, **94-396**

DESIGN DEFECTS
manufacturer's liability
government contractor defense, **92-327**

DIAGNOSIS
delirium tremens, **99-409**
fetal brain damage, closing argument
Pitocin to stimulate labor, **99-238 et seq.**
fetal monitoring
infection after membrane rupture, **99-3 et seq.**
Meningitis
generally, **99-268**
diarrhea as symptom, **99-285, 99-301**
incidence, **99-279**
symptoms generally, **99-303**

DIRECT EXAMINATION, MASTERING
goals, **98-102**
questioning techniques, **98-107**
redirect examination, **98-115**

DIRECTED VERDICT
motion, **93-372**

DISABILITY
life care plan, **99-259**

DISCOVERY
abuses
depositions, **92-456**
improper requests to admit facts, **94-6**
alternative dispute resolution
alternatives to litigators, **95-38**
appeal from denial of privilege, **99-71 et seq.**
argument, explaining significance of discovery information in, **99-15**
attorney-client privilege, denial in, **99-71 et seq.**
criminal law
disclosure by prosecution
withholding evidence, effect, **94-347**
depositions, informal discovery procedure, **98-323**
expert witness
Rule 26(b)(4), Federal Rules of Civil Procedure, **91-97**
Fair Credit Reporting Act violations, **99-468 et seq.**
federal agencies, **93-76**
agency defined, **93-77**
attorneys' fees, **93-79**
disclosure under FOIA, exceptions, **93-79**
indexes, **93-78**
judicial review, **93-78**
scope of discovery, **93-77**
time limits on production, **93-78**
income tax returns
case for disclosure, **95-367**
interlocutory appeal from denial of privilege, **99-71 et seq.**
presuit discovery
defense preparation, **91-37**
depositions, methodical progression approach, **91-35**
prefiling checklist, **91-41**
premises liability for third-party assaults, **91-31, 91-35**
privilege, denial in, **99-71 et seq.**
products liability
bill for discovery, **93-519**
emergency motion for protective order, **93-507**
inspecting the product, **93-505**
interrogatories, **93-519**

DISCOVERY—Cont'd
products liability—Cont'd
investigating the product, **93-512**
performance standards, **93-514**
product literature, **93-512**
product testing, **93-510**
request to produce, **93-519**
technical information, **93-515**
witnesses, **93-512**
protective orders
requests to admit, limiting, **94-11**
requests to admit facts
not substitute for other discovery, **94-6**
requests to admit facts, distinction, **94-6**
sanctions for abusive discovery
unresponsive expert interrogatories, barring testimony, **91-99**
trial preparation outline, **98-216**
work product privilege
generally, **99-217 et seq.**
because-of-litigation analysis, **99-224**
pre-litigation advice, **99-219**
primary purpose of material, consideration of, **99-222**

DISCRIMINATION
see also Americans With Disabilities Act; Arbitration; Civil Rights Actions; Title VII (this index)
employees' burden of proof, **99-447**
sexual harassment claims, **99-439 et seq.**
summary judgment, resolution of employment discrimination litigation by, **99-80 et seq.**

DISMISSAL OF ACTION
see also Voluntary Dismissal (this index)
sanction for negligent destruction of evidence, **96-489**

DISTRICT OF COLUMBIA
premises liability for third-party assaults
landlord liability, reasonable precautions, **91-21**

DIVORCE
legal malpractice, **93-288**
marital property, **93-288**

DNA IDENTIFICATION
see Evidence (this index)

DOCTORS
see Physicians and Surgeons (this index)

DOCUMENTARY EVIDENCE
genuineness
    request for admission of fact, **94-8**
spoliation, remedies, **94-519**

DOCUMENTS
indexing by consultant to attorney
    environmental cleanup cases, **94-28**

DUE CARE
see Duty of Care (this index)

DUE PROCESS OF LAW
alternative dispute resolution, limitations, **95-38**
attorney disciplinary agency actions, **94-501**
criminal voir dire on pretrial publicity, **91-242, 91-248**
Fifth Amendment
    continuous and systematic contacts, **92-401**
    Fourteenth Amendment relationship, **92-397**
Fourteenth Amendment
    Fifth Amendment application, **92-399**
    Fifth Amendment relationship, **92-397**
legislative history, **92-395, 92-396**
long-arm statutes, **92-380**
    constitutional test, **92-382**
    personal jurisdiction, **92-381**
minimum contacts
    foreseeability of injury, **92-420**
personal jurisdiction
    federal diversity subject matter, **92-386**
    federal question subject matter, **92-386**
    minimum contacts, **92-388**
    nature of the claim test, **92-393**
    state contact analysis, **92-390**
punitive damages, **93-634**
students and teachers, **97-118**
    commentary, **97-123**

DUTY OF CARE
nurses
    generally, **99-39**

DUTY OF CARE—Cont'd
nurses—Cont'd
fetal monitoring, **99-6**
medication changes, **99-249**
possessors of land
foreseeability and duty, California analysis, **91-28**
imminent probability of harm, **91-27**
leases, implied duties, **91-24**
protecting against third-party assaults, **91-17, 91-24, 91-28**
telemedicine standard of care, **99-305**

EARNINGS
actuary's opinion, admissibility, **94-423**

EARTHQUAKES
insurance, misrepresentations as to coverage, **98-418**

ECONOMIC LOSS
hedonic damages, **92-1**

ELECTRICITY
trespasser on electric railroad property, **94-166**

ELECTRONICS COMMUNICATIONS PRIVACY ACT
generally, **99-46, 99-51**

E-MAIL
encryption, **99-49**
interstate practice of law and use of, **99-231**
privileged communications, protection of, **99-42 et seq.**

EMBEZZLEMENT
general partners, inapplicability of tort law, **94-305**

EMINENT DOMAIN
value
wetlands, **93-693**

EMOTIONAL DISTRESS
see also AIDS
adoption
liability of attorney, **95-355**
bystanders
deaths of children, **92-389**

EMOTIONAL DISTRESS—Cont'd
fear of contracting AIDS. See AIDS (this index)
history of causes of action for, **99-365**
negligent infliction
air crash disaster, **92-590**
possibility of exposure to AIDS virus, **95-375**
physical injury requirement, **99-366**

EMPLOYMENT RELATIONSHIP
see also Americans with Disabilities Act; Arbitration; Civil Rights Act (this index)
age discrimination
prejudgment interest, **98-68**
alcoholism, **96-494**
applicants' claims, arbitration, **99-175**
burden of proving discrimination, **99-447**
collective bargaining agreements, effect of, **99-172, 99-465 et seq.**
discrimination laws, **99-439 et seq.**
employee history file
accuracy and consistency checks, **91-298**
age, sex and race data, accuracy, **91-300**
biased or inaccurate data, **91-293**
class membership errors, **91-300**
computerized date development, **91-293**
constructed pools analyses, **91-308**
contents, **91-283**
creation, **91-285**
credibility of data base, **91-293**
current and permanent positions, table, **91-298**
data base for analysis of issues, **91-284**
data set redundancy, **91-304, 91-305**
diagnostic checks of variables in data base, **91-300**
diagnostic checks targeted to allegations in case, **91-304**
employer's personnel system, comprehension, **91-295**
error checks between two or more records, **91-303**
error checks within single record, **91-302**
existing computerized files, **91-289**
hypothetical case, **91-283**
incomplete data sources, **91-292**
information table, **91-286**
judicial review of accuracy checks, **91-304, 91-305**
key personnel actions and information, selection, **91-286**
mergers and separations of computerized files, **91-287**
monetary award analyses, **91-309**

EMPLOYMENT RELATIONSHIP—Cont'd
employee history file—Cont'd
personal actions includable, **91-285, 91-286**
qualifications as analytical factor, **91-309**
questions answerable by appropriate file, **91-284, 91-310**
recommended procedure in developing file, **91-294**
salary progression, **91-309**
source documents, **91-291**
as data base, **91-291**
errors, **91-306**
standardizing values in data file, **91-295**
subjective judgments preceding data entry, **91-292**
temporary and permanent assignments, tracking, **91-297**
transcription of data, clerical errors, **91-292**
unaugmented computerized files, review, **91-294**
validity checks, **91-305**
variables included in file, table, **91-288**
waiting time analyses, **91-307**
work force descriptions, **91-306**
frivolous employee claims, **99-171**
handbooks, arbitration provisions in, **99-173**
punitive damages
principal's liability, **94-355, 94-505**
quid pro quo sexual harassment, **99-441**
same-sex sexual harassment, **99-448**
summary judgment, resolution of litigation by, **99-80 et seq.**
termination
political reasons, **92-468**
Railway Labor Act, **97-450, 97-456**
wrongful discharge
genuine issue of material fact, **92-391**
political reasons, **92-468**

ENTRY UPON LAND
see Inspection (this index)

ENVIRONMENTAL CONTROL
toxic waste cleanups
attorney-consultant relationship, **94-18**
document processing, **94-28**

ERIE DOCTRINE
generally, **97-403**
commentary, **97-404**

ESTOPPEL
by verdict
choice of forum, **92-254**

ETHICS
generally, **99-187 et seq.**
see also Civility (this index)
ad hominem argument, **99-211**
attorney-client privilege, ethical basis, **99-43**
client's perjury, ethics and professionalism, **98-278**
law firms, **92-313**
legal profession's problems, **94-321, 99-182**

EVIDENCE
see also Admissions; Burden of Proof; Computers; Experts; Federal Rules of Evidence; Demonstrative Evidence; Depositions; Documentary Evidence; Preserving Issues for Appeal (this index)
admissibility
computer-generated animation, **92-434, 92-437**
DNA test results
generally, **97-594**
commentary, **97-600**
post-manufacture safety changes, **97-70**
commentary, **97-75**
private investigator's observation of injured witness, **91-89**
adverse witness, **93-354**
airplane accidents
air traffic control tapes, preserving, **94-477**
wreckage preservation for testing, **94-479, 94-523**
closing argument, **98-176**
computer-generated animation. See Computers (this index)
criminal cases
DNA identification, **94-359**
day-in-the-life video presentation, use of, **99-241**
depositions, explaining evidentiary value of to jury, **99-140**
destruction, negligent
sanction of dismissal, **96-489**
DNA identification, **94-359**
DNA test results, admissibility
generally, **97-594**
commentary, **97-600**
forgetful witness, arguing credibility of, **99-21, 99-253**
fraud, RICO class action, **98-95**

EVIDENCE—Cont'd
general scientific acceptance
computer-generated animation, **91-442**
hearsay
computer-generated animation, **91-442**
learned treatise exception, **91-313**
interrogatories, explaining evidentiary value of to jury, **99-140**
learned treatise, reading from, **91-312**
legal relevancy
computer-generated animation, **92-441**
loss
sanctions, **92-511**
motion for directed verdict, **93-372**
order, **93-365**
photographic evidence, **93-308**
police reports, **93-357**
post-manufacture safety changes, **97-70**
commentary, **97-75**
preservation
airplane accident cases, **94-477, 94-523**
physical evidence, **98-305**
prior similar occurrences
police use of excessive force, **95-270**
requests for admissions. See Admissions (this index)
spoliation
airplane accidents, **94-523**
medical records alteration, **94-519**
x-rays, **94-522**
unfair evidentiary tactics
private investigator's deposition of injured plaintiff, **91-89**

EXCESS INSURANCE
delay in notifying
generally, **91-340, 97-572**
commentary, **97-574**
late notice of accident, **95-110**
notice allegations in complaint, **91-343**
notice requirements, **92-415, 95-110**

EXCESSIVE VERDICTS
airplane accidents, **94-199**

EXHIBITS
advice of judge to young lawyer, **94-41**

EXHIBITS—Cont'd
charts
visibility to judge and jury, **94-41**
closing argument, **98-176**
identifying and marking deposition exhibits, **98-330**
marking, advice from judge, **94-41**
moving pictures
videos, **94-41**
television monitors, use of, **99-241**
trial preparation, checklist, **98-217**
videos, **94-41**

EXPERIMENTS
demonstrative evidence, **98-296, 98-313**

EXPERTS
see also Cross-Examination; Preparing Expert Witness; Psychologists (this index)
accountants as expert witnesses
generally, **97-463**
conflicts of interest, **97-480**
engagement terms and modifications, **97-476**
rationales, **97-470**
reports, **97-478**
standards, **97-465 et seq.**
statements of auditing standards, **97-463**
statements on standards for accounting and review services, **97-463**
terminology and preconceived notions, **97-473**
addressing in presence of jury, **99-142**
administrative vs clinical experience, questions pointing out, **99-272**
admissibility of expert's opinions, **95-74**
AIDS transmission modes and possibilities, **99-370**
airplane accident case
pilot experts as recommended, **94-445**
when to retain, **95-205**
appointment, **94-342, 97-316**
bias
closing argument, **93-379**
board certification procedures, **99-95**
clinical experience, questions pointing out lack of, **99-272**
collateral cross-examination of expert, **99-266 et seq.**
consultants
environmental, cooperating with attorney, **94-31**
court-appointed, **94-342, 97-316**

EXPERTS—Cont'd
criminal law, future dangerousness opinion, **99-88 et seq.**
Daubert progeny, **97-299, 98-74, 98-163**
deposition use in developing opinion, questions pointing out, **99-274**
discovery
    sanctions for unanswered interrogatories, **91-95, 91-99**
    trial-witness expert under Federal Rules, **91-97**
environmental consultants, **94-18**
frequent testimony
    affect on credibility of physician, **95-273**
future dangerousness opinion, **99-88 et seq.**
hypothetical question
    heart injury from blunt chest trauma, **91-259**
junk science
    effect on role of juries, **94-75, 95-230**
legal conclusions, excluding expert testimony expressing, **98-154**
locality of out-of-state expert, questions pointing out, **99-272**
medical
    treatises, reading from, **91-312**
missing opinion, argument re, **99-15**
nurses, standards of care of, **99-39**
    fetal monitoring, **99-6**
    medication changes, **99-249**
opinion testimony
    admissibility, **95-74, 98-154**
    court's discretion, **96-498**
    heart condition after blunt chest trauma, **91-262**
    science-based opinions, **94-75, 94-330, 95-230**
    ultimate issue opinions, **97-343**
other case experience, qualification by, **99-98**
physiatrician's opinion as to rehabilitation expenses, **99-257**
present cash value, explaining, **99-258**
professional expert, questions pointing out, **99-271**
qualifications, **97-302, 99-95 et seq.**
risk assessment, **99-88 et seq.**
same-school requirement, **99-7**
science-based opinions, **94-75, 94-330, 95-230**
scientific facts, **95-230**
standards
    accountants as expert witnesses, **97-465 et seq.**
treating physician as expert witness, **99-397**
trial judge's view
    generally, **97-299**
    conclusion, **97-358**

EXPERTS—Cont'd
trial judge's view—Cont'd
court appointed experts, **97-316**
medical malpractice, when expert not necessary, **97-355**
qualifications of experts, **97-302**
ultimate issue opinions, **97-343**
ultimate issue opinions, **97-343**

FAIR CREDIT REPORTING ACT
litigation investigation activities as subject to, **99-468 et seq.**

FALSE CLAIMS ACT
qui tam actions, recovery denied, **93-124**

FAX TRANSMISSIONS
attorney-client privilege, compromising, **99-47**

FEAR OF AIDS
see AIDS (this index)

FEDERAL AVIATION ACT
accident investigation, **95-205**
accident reports
probable cause conclusions, admissibility, **91-152**
aviation accident cases
NTSB reports, evidentiary bar, **91-146, 91-151**
NTSB reports, governmental privilege, **91-144**
conflict with Federal Rules, constitutional issues, **91-152**
federal preference over private litigants, **91-146, 91-149**
preemption of state punitive damage claims, **91-131**
Atomic Energy Act, comparison, **91-135**
compensatory damage remedies, distinction, **91-135**
overlooking, breach of covenant, **91-131**
savings clause, **91-134**
state tort claims, distinction, **91-136**
probable cause conclusions, pilot error, **91-153**

FEDERAL COURTS
Civil Justice Reform Act of 1990, **91-178**
active case management, **91-178**
litigation cost and delay, reduction, **91-178**
pretrial process, control, **91-179**

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA)
federal court jurisdiction denied, **97-264**
commentary, **97-266**

FEDERAL JURORS
peremptory challenge
Batson vs. Kentucky, applicability to civil actions, **91-123**
racially based civil challenges, equal protection, **91-124**

FEDERAL PREEMPTION
air bags, National Traffic and Motor Vehicle Safety Act of 1966, **97-269**
Airline Deregulation Act, **97-591**
generally, **97-591**
aviation statute, **92-535**
implied provisions, **92-535**
Medical Device Amendments Law, **97-461**
commentary, **97-462**

FEDERAL RULES OF BANKRUPTCY
reasonable inquiry under, **97-441**
commentary, **97-443**

FEDERAL RULES OF CIVIL PROCEDURE
frivolous filings, **91-211**
criminal indictments lacking reasonable basis, **91-213**
Rule 11
attorney survey, **93-198**
benefits, **93-155**
chilling effects, **93-166**
comparative study, federal and state courts, **93-137**
conflict of interest potential, **91-129**
costs, **93-159**
different cause of action from controlling law, **92-113**
disproportionate impact, **93-168**
empirical study, **93-137**
fees on appeal, **91-211**
goals, **93-155**
inhibiting effects on litigation, **91-130**
judge/magistrate survey, **93-195**
lawyer-client conflicts, **91-130**
malpractice insurance, effect on, **91-212**
objective standards, **91-211**
one bad apple theory, **92-356**
party dismissed from case, **92-133**
persons subject to sanctions, **91-128**
power of court, **91-130**
prior inquiry, making allegations without making, **97-441**
commentary, **97-443**

FEDERAL RULES OF CIVIL PROCEDURE—Cont'd
Rule 11—Cont'd
problems, **93-159**
proposed amendment, **93-190**
sanctions, **93-174**
satellite litigation, **93-161**
standard of review, **91-210**
state action, **93-194**
subject matter jurisdiction, **92-293**
Rule 16
appearance at pretrial settlement conference, **91-335, 91-337**
Rule 26(b)(4)
adequacy of expert's responses, sanctions, **91-95, 91-99**
Rule 30(c)
depositions, **92-450**
Rule 37(a)(2)
expenses award, **92-451**
Rule 68, implementation, suggested forms and changes, **97-17**
commentary, **97-47**
conclusion, **97-47**
proposed rule, **97-35**

FEDERAL RULES OF EVIDENCE
disregarding at trial, **98-141**
expert testimony
blunt chest trauma, **91-259, 91-262**
legal issues, exclusion of testimony touching on, **98-162**
qualification of expert witness, Rule 702, **91-160, 98-163**
Rule 403
balancing test, **92-446**
computer-generated animation, **92-441**
legal issues, exclusion of expert testimony touching on, **98-155**
Rule 702
qualification of experts, **91-260, 98-163**
Rule 703
expert testimony, heart injuries from blunt chest trauma, **91-258**
Rule 704
legal conclusion, expert testimony expressing, **98-155**
testimony embracing ultimate issue, **91-261**
Rule 705
hypothetical question, elimination, **91-259**
Rule 803
computer-generated animation, **92-443**

FEDERAL RULES OF EVIDENCE—Cont'd
Rule 803(8)(C)
hearsay, public records exception, **91-139**
legislative history, **91-140**
military aircraft accident report, opinions in, **91-138**
NTSB reports, statutory conflict, **91-144, 91-151**
opinions within factual reports, hearsay, **91-137 et seq.**
trustworthiness, information sources, **91-141**
Rule 803(18)
hearsay exception, **91-260**
Rule 901
computer-generated animation, **92-440**

FEDERAL TORT CLAIMS ACT
air traffic control errors, **92-376**
aviation accidents
midair collisions, **94-439**

FEES
see also Attorneys' Fees (this index)
real estate development
impact fees by local governments, **94-187**
reasonableness
burden, **91-459**

FETAL DISTRESS
brain damage, closing argument
infection after membrane rupture, **99-3 et seq.**
Pitocin to stimulate labor, **99-238 et seq.**
infection, closing argument, **99-3 et seq.**

FIFTH AMENDMENT
due process of law
personal jurisdiction, **91-391**

FLOODS
admiralty law
breach of riverbank causing flood, **94-61**
tunnel leased by municipality to communications and utility companies, tort liability, **98-93**

FOCUS GROUPS
generally, **99-315 et seq.**
adversaries' arguments, anticipating, **99-332**

FOCUS GROUPS—Cont'd
attributions of responsibility, **99-324**
case theme, identifying, **99-316**
causation attributions, **99-327**
counterfactual thinking, **99-327**
empathy, creating, **99-330**
jury selection, **98-252**
personal responsibility ideas and anti-plaintiff bias, **99-316**
priming the message, **99-321**
purpose, **99-315**
social theme, identifying, **99-316**
utilization, **99-318**

FORESEEABILITY
see also Premises Liability and Criminal Assaults (this index)
aircrash litigation
    Korean Air Lines Flight KE 007 disaster, **91-63**
golf injuries, **94-71**
third-party assaults on landowners' tenants or invitees, **91-16**
    duty and foreseeability, California analysis, **91-28**
    imminent probability of harm, **91-27**
    range of foreseeability, **91-29**
trespassers, duty of landowner, **94-166**

FORFEITURE
crimes, forfeiture by U.S. of property linked to, **97-271**
    commentary, **97-276**

FORMS
closing arguments
    sample jury verdict forms, **98-199, Appendix II**
interrogatories for defense
    expert witness, civil rights claim, **91-95**
verdict, **99-41**

FORUM, CHOICE OF
abuses
    forum shopping, **94-118**
forum non conveniens
    forum-shopping antidote, **94-126**
forum selection and shopping distinguished, **94-123**
multiple defendants, jurisdiction, **94-145**
tort cases
    suggestions, **92-172**

FORUM, CHOICE OF—Cont'd
United States as site, popularity, **94-118**

FORUM NON CONVENIENS
choice of forum
tort cases, **92-199**
forum shopping, countering, **94-126**
international aspects
European Economic Community, **94-141**
foreign plaintiffs, **94-131**

FOURTEENTH AMENDMENT
due process of law
personal jurisdiction, **92-392**

FRANCHISES
agency, **97-267**
commentary, **97-268**

FRAUD
attorney-client privilege, crime-fraud exception, **98-418**

FREEDOM OF SPEECH
judicial candidates, **93-655**
politics and
generally, **97-457**
commentary, **97-459**

GOLF INJURIES
patron hit on clubhouse deck, **94-71**

GOOD FAITH
insurer and insured, good faith conduct of defense, dual representation, **91-168**
law firm partner, discharge, **98-81**

GOVERNMENT CONTRACTOR DEFENSE
generally, **97-59**
commentary, **97-68**
manufacturer's liability, **92-327**

HABIT AND CUSTOM EVIDENCE
nurses, customary practices, **99-5**

HEALTH CARE IMPROVEMENT ACT
disciplinary action under, remedies for doctors facing, **97-194**
commentary, **97-206**

HEALTH CARE IMPROVEMENT ACT—Cont'd
disciplinary action under, remedies for doctors facing—Cont'd
conclusion, **97-205**
exceptions, **97-197**

HEARSAY
computer-generated animation, **92-443**
learned treatise exception, **91-313**

HEART INJURIES FROM BLUNT CHEST TRAUMA
automobile impact injuries, **91-249, 91-251**
causal connection, burden of proof
but for test, **91-257**
case study, **91-250, 91-256**
expert testimony, Federal Rules of Evidence, **91-258**
hypothetical question, use, **91-259**
proximate cause jury instruction, Illinois, **91-258**
Rule 703, Federal Rules of Evidence, **91-258**
substantial factor test, **91-257**
causal linkage, clues
angiography, **91-253**
CPK-MB enzyme monitoring procedure, **91-253**
delayed symptoms, **91-252**
echocardiogram, **91-253**
electrocardiogram, **91-253**
medical records and client's history, **91-249**
medical test for cardiac injury, **91-252**
nature and extent of trauma, **91-250**
physical damage, **91-251**
coronary artery injuries, **91-252, 91-254**
diagnosis, **91-253**
expert witnesses under Federal Rules of Evidence
cause of heart condition, admissibility of opinion, **91-262**
Rule 702, qualification, **91-260**
Rule 703, bases of opinion, **91-258**
Rule 704, opinion on ultimate issue, **91-261**
Rule 705, hypothetical questions, **91-259**
Rule 803(18), expert witness hearsay exception, **91-260**
latency, **91-249**
myocardial contusions, frequency, **91-253**
nonpenetrating injuries, common causes, **91-251**
post-trauma injury, causal link
age of victim, **91-255**
attorney's and physician's perceptions, distinction, **91-255**

HEART INJURIES FROM BLUNT CHEST TRAUMA—Cont'd
post-trauma injury, causal link—Cont'd
client's medical records and history, **91-255**
pain, **91-255**
pre- and post-trauma medical history, **91-255**

HEDONIC DAMAGES
comatose victim, **94-57**

HISTORICAL PHOTOGRAPHS
demonstrative evidence, **98-308**

HIV
see AIDS (this index)

HOSPITAL RECORDS
charting practices, **99-4, 99-19**
telephone inquiries, documentation, **99-288**
x-ray preservation statutes, **91-330**
premature destruction, right of action, **91-331**
violation, right of action, **91-331**
x-rays, spoliation, **94-522**

HOSPITALS
see also Hospital Records (this index)
accreditation, residency programs, **99-292**
apparent authority theory of liability, **94-511**
brain damage, fetal, closing argument
infection after membrane rupture, **99-3 et seq.**
Pitocin to stimulate labor, **99-238 et seq.**
charting practices, **99-4, 99-19**
discharge, negligent, **99-14**
fetal brain damage, closing argument
infection after membrane rupture, **99-3 et seq.**
Pitocin to stimulate labor, **99-238 et seq.**
negligence
apparent authority of physician, **94-511**
vicarious liability
independent contractor physician's acts, **94-511**
records. Hospital Records (this index)
residency programs
accreditation, **99-292**
supervision requirements, **99-295**

HOSPITALS—Cont'd
telemedicine
documentation of calls, **99-288**
infant, symptomatic diagnosis of, **99-268**
standard of care, **99-305**

HOTELS
assaults upon guest, liability
deposition, hotel security director, **91-47**
pretrial discovery, **91-35**

HOUSING
Fair Housing Act
conflict with local restrictions, **95-266**

ILLINOIS
day-in-the-life videos, **98-226**
evidence
private investigator's observation of injured plaintiff, **91-89**
hospitals
x-ray preservation law, right of action for violation, **91-330**
insurance
insurer's right to control defense, **91-166**
premises liability for third-party assaults
landlord liability, **91-68**
products liability
punitive damages, **91-201**
proximate cause pattern instruction, **91-258**

IMAGE, TRIAL LAWYERS'
generally, **99-182 et seq.**

IMMUNITY
absolute
state public officials, **92-470**
absolute immunity, **99-338**
judicial, **99-334 et seq.**
municipalities, tort liability, **98-90**
parent and child
availability in tort cases, **92-521**
negligent operation of automobile, **92-276**
scope, **94-529**
prosecuting attorneys
absolute immunity, **93-492**

IMMUNITY—Cont'd
prosecuting attorneys—Cont'd
civil rights claims, **93-103**
civil rights immunities, **96-462**
public officials
personal capacity liability, **92-469**
political acts, **92-468**
sheriffs, **97-280**
commentary, **97-283**
qualified immunity, **99-338**

IMPEACHMENT
argument, highlighting impeachment to jury, **99-253**
civil jury trial, **93-361**
forgetfulness, credibility and, **99-254**
personal injury case
private investigator's observations, **91-90**
rehabilitation, redirect examination, **98-115**

INCOME TAX
returns
discovery, **95-367**
availability of information elsewhere, **95-367**

INDEMNITY
environmental cleanup consultants, **94-18**
legal malpractice
third-party claims for indemnity, **98-84**

INDEPENDENT CONTRACTOR
physician
hospital's vicarious liability, **94-511**

INDICTMENT
prosecutors' duties
exculpatory evidence, **92-298**

INDUSTRIAL INJURIES
delirium tremens, trauma-induced, **99-384**
heart damage after blunt trauma, **91-249 et seq.**

INFANTS
see also Children (this index)
bowel movement patterns, **99-296**

INFANTS—Cont'd
brain damage, closing argument
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
colic, **99-304**
crying, causes of, **99-298**
custody
    transfer from adoptive parents, **95-255**
diarrhea
    dehydration and, **99-301**
    Meningitis and, **99-266 et seq.**
    symptomatic significance, **99-285, 99-301**
irritability, **99-298**
jaundice, **99-277**
Meningitis
    causation, **99-285**
    diagnosis, **99-268**
    diarrhea as symptom, **99-285, 99-301**
    incidence, **99-279**
    symptoms, generally, **99-303**
neonatal period, **99-299**
PKU test, **99-278**
septic shock, fetal, **99-6**
severe injuries, dangers in arguing, **99-9**
spastic quadriparesis, **99-240**
weight monitoring, **99-277**

INFERENCES
closing argument, **98-177**

INSPECTION
entry upon land
    airplane accident evidence, preservation, **94-481**

INSTRUCTIONS TO JURY
burden of proof
    police use of excessive force, **91-112**
civil rights cases
    police officer's use of deadly force, **91-112**
closing argument, **98-197, Appendix I**
closing argument, explaining instructions during, **99-10**
disability compensation, explaining, **99-35**
disfigurement, explaining compensation for, **99-36, 99-263**
federal jury instructions, suggestions, **91-114**

INSTRUCTIONS TO JURY—Cont'd
foreseeability, third party's wrongdoing, **91-64**
limiting instruction on evidence, **98-40**
pain and suffering damages, explaining, **99-34, 99-263**
sole proximate cause defense, **97-233, 97-401**
tax considerations, **94-423, 97-245**
trial preparation outline, **98-220**
willful misconduct, **91-203**

INSURANCE
ambiguities in policy, construction, **91-120**
attorney for insured
  relationship with insurer, **91-163**
attorneys' fees
  ability, experience, and integrity as basis, **91-192, 91-198**
  agreed fee arrangements, ethical guidelines, **91-187**
  computer-augmented billing rates, **91-185**
  contingency fee system, **91-186**
  flat fees for defined services, **91-187**
  hourly billing arrangements, critique, **91-184**
  hourly fees as delay incentives, **91-185**
  percentage of savings achieved on settlement, **91-199**
attorney's negligence, liability, **91-163, 91-164**
  professional judgment areas, **91-164**
automobiles
  ambiguities in policy, construction, **91-120**
  choice of compensation system, **91-184**
  construction of policy against insurer, **91-119**
  cost-cutting measures, **91-173**
  cost-induced insurance cutbacks, **91-171, 91-182**
  insurance affordability, **91-182**
  internal cost control, **91-184**
  litigation cost growth, **91-173**
  medical cost increases, **91-173**
  no-fault proposals, **91-182**
  no-fault replacement of tort recovery system, **91-184**
  policy coverage and exclusion clauses, **91-116**
  punitive damages, **91-202**
  reparations, **91-182**
  restrictions on payments for minor injuries, **91-183**
  state-run insurance proposals, **91-172**
  underwriting loss increases, effects, **91-171**
  unlicensed minor as covered person, **91-116**

INSURANCE—Cont'd
aviation insurance
conflicts of interest, **93-1**
conflicts of interest
defense counsel, **91-169**
multiple insured, representing, **93-1**
construction of policy, **91-121**
adhesion contracts, comparison, **91-121**
ambiguities construed in favor of insureds, **91-121**
forwarding of suit papers, effect on other coverages, **91-332**
defense of lawsuit, right to control
conflicts of interest, **91-169**
consent of insured, **91-166**
contractual right, **91-166**
duty to insured, **91-165**
good faith, **91-168**
policy recitations, **91-167**
rescission of insurer's right, **91-170**
reservation of rights, **91-167**
earthquake coverage, misrepresentations, **98-418**
environmental consultants
dump site cleanups, **94-25**
excess carrier
delay in notifying, **91-340**
generally, **91-340, 97-572**
commentary, **97-574**
late notice of accident, **95-110**
notice allegations in complaint, **91-343**
notice requirements, **92-415, 95-110**
excess judgments
defense counsel liability, **92-481**
insurer liability, **92-481**
legal malpractice
attorney-client relationship, prerequisite, **91-163, 91-164**
litigation management costs
active case management, **91-178**
Alternative Dispute Resolution (ADR) programs, **91-180**
alternatives to trial, **91-180**
arbitration, **91-181**
bad faith claims, investigations, **91-174**
Civil Justice Reform Act of 1990, **91-177**
complicated litigation, **91-174**
cost increases, DRI survey, **91-173**
cost reduction plans, **91-177**

INSURANCE—Cont'd
litigation management costs—Cont'd
cost-cutting measures, **91-173**
CUMIS Doctrine, fraudulent effects, **91-174**
discovery abuse, **91-190**
expediting litigated cases, **91-176**
fraudulent litigation costs, **91-174**
Judicial Arbitration and Mediation Services (JAMS), **91-181**
judicial reform, **91-177**
macho defense counsel, **91-189, 91-197**
per diem system of payment, **91-196**
reform recommendations, **91-176**
savings/indemnity offset, **91-188**
tort litigation growth, **91-175**
mental illness exclusion, **93-266**
multiple insured
avoiding conflict, **93-1**
sharing agreement, **93-17**
occurrence, what constitutes, **94-192**
policy
occurrence, what constitutes, **94-192**
policy construction and validity, choice of law, **91-205**
punitive damages
choice of law, **91-204**
insurer and insured conflicts, **92-400**
products liability, **91-205**
public policy, **91-202**
representing insurer and insured
attorney-client relationship with insured, **91-165**
bibliography, **91-199**
conduct of defense, duty to insured, **91-165**
conflicts of interest, **91-169**
control of defense, insurer's contract rights, **91-166**
disciplinary rules, guidance
Code of Professional Responsibility, Model, **91-165**
Rules of Professional Conduct, Model, **91-165**
good faith conduct of defense, **91-168**
insured's consent to control of defense, **91-166**
malpractice claims, **91-164**
relationship with insurer, nature of, **91-162**
reservation of rights, **91-167**
settlement decisions, **91-166**
settlement of claims
compelling appearance at settlement conference, **91-334, 91-338**

INSURANCE—Cont'd
settlement of claims—Cont'd
insurer's control, **91-166**
single occurrence, what constitutes
generally, **97-581**
commentary, **97-585**
toxic waste cleanup consultants, **94-25**
wrongful death actions
excess carriers, delayed notice, **91-340**

INTENTIONAL ACT
workers' compensation, exclusivity of remedy, **94-366**

INTEREST ON MONEY
see Prejudgment Interest (this index)

INTERLOCUTORY APPEAL
attorney-client privilege, appeal to protect, **99-71 et seq.**

INTERNATIONAL LAW
forum non conveniens
European Economic Community, **94-131**
foreign plaintiffs, **94-131**
products liability
foreign plaintiffs, forum non conveniens, **94-136**
torts
personal jurisdiction, **92-426**

INTERNET
generally, **99-48**
e-mail communications, protection of, **99-42 et seq.**
encryption, **99-49**
interstate practice of law and use of, **99-231**

INTERROGATORIES
answering party's duties
experts under Federal Rule 26(d)(4), **91-96**
answers
expert's responses under Federal Rule, adequacy, **91-96**
argument of counsel
sample jury verdict forms, **98-199, Appendix II**
special interrogatory, alluding to how juries should answer, **98-98**
evidentiary value of, explaining to jury, **99-140**

INTERROGATORIES—Cont'd
experts
substitutions for depositions, **91-101**
products liability, **93-519**

INTERVENTION
protective orders, **93-217**

INVITEE
liability of possessor of land
third-party assaults, **91-15, 91-26, 91-67**

JONES ACT
seamen, meaning of
generally, **92-533**
conclusion, **97-565**
history of Jones Act, **97-532**

JUDGES
appellate, per curiam decisions, **95-23**
attorneys' fees, **97-432**
commentary, **97-433**
civility, **97-364**
federal trial judges
racial prejudice, **91-127**
immunity of, **99-334 et seq.**
independence of, **99-183**
judicial candidates, freedom of speech, **93-655**
selection standards, **99-183**
trial judges
discretion in admitting expert testimony, **95-101**
wrongful conduct liability, **92-558**

JUDGMENT
summary judgment, resolution of factual disputes by, **99-80 et seq.**

JURISDICTION
admiralty
generally, **93-451**
navigable waters, what constitutes, **95-1**
choice of forum
tort cases, **92-181**
Commercial Division of supreme court, **98-59**

JURISDICTION—Cont'd
diversity of citizenship jurisdiction
damages, **97-246, 97-403**
minimum contacts test, **91-225, 91-227**
federal claims
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), **97-264**
commentary, **97-266**
pendent subject matter jurisdiction, **92-409**
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), **97-264**
commentary, **97-266**
forum non conveniens
foreign plaintiffs, **94-131**
in personam
international law, **92-427**
long-arm statute, **92-347**
patent infringement, **92-347**
residency, **92-429**
in rem
patent infringement, **92-347**
international law
foreign forums, **92-431**
residency, **92-430**
long-arm statute
federal questions, **92-418**
pendent personal jurisdiction, **92-407**
pendent subject matter jurisdiction, **92-408**
two-part test, **92-403**
maritime jurisdiction, **93-451**
minimum contacts
state standards, **92-389**
minimum contacts within constitutional limits
forum selection, historical bases, **94-121**
nonresident company, **92-572**
pendent state claims
constitutionality, **92-412**
personal
due process of law, **92-381**
due process test, **92-385**
long-arm statutes, **92-346**
minimum contacts, **92-384**
stream of commerce basis, **97-406**
commentary, **97-409**
territorial theory, **92-383**

JURISDICTION—Cont'd
personal jurisdiction
forum, nature of contacts, **94-121**
minimum contacts, **91-227**
quasi in rem
automobile tort suit, **91-228**
state claims
pendent personal jurisdiction, **92-411**
pendent subject matter jurisdiction, **92-408**

JURY
see also Argument (this index)
attributions of responsibility, **99-324**
causation attributions, **99-327**
closing arguments
consequences of verdict, remarking on, **94-408**
special interrogatory, commenting on how juries should answer, **98-98**
deliberations, discharge of juror for nullification attitude during, **98-246**
empathy, creating, **99-330**
jury notebooks, **93-589**
media coverage of trial, effect on jury, **94-388**
personal responsibility ideas and anti-plaintiff bias, **99-316**
priming the message, **99-321**

JURY SELECTION
see also Focus Groups; Voir Dire Examination (this index)
Batson rule, applicability to civil actions, **91-123**
demographics, **98-255**
focus groups, **98-252**
Focus Groups (this index)
jury box selection process, **98-412**
mind of juror, getting into, **98-252**
peremptory challenges
reversable error, impairment of right, **98-416**
struck system, **98-412**
peremptory challenges based on race
Batson vs. Kentucky, applicability to civil actions, **91-123**
equal protection clause, **91-124**
racial motivation in civil case, **91-320**
personal responsibility ideas and anti-plaintiff bias, **99-316**
struck jury system, **98-412**

JURY TRIAL
attempts to undermine
role of junk science, **95-230**

JURY TRIAL—Cont'd
closing argument
basis in evidence, **93-377**
expert bias, **93-379**
reference to jury instructions, **93-378**
constitutional guarantee, **95-370**
evidence
adverse witness, **93-354**
basis of expert opinion, **93-367**
cross-examination of expert, **93-370**
impeachment, **93-361**
motion for directed verdict, **93-372**
order, **93-365**
photographic evidence, **93-360**
police reports, **93-357**
Rules of Evidence, disregarding, **98-141**
scope of redirect, **93-366, 98-115**
witness's Fifth Amendment rights, **93-363**
instructions conference
comparative fault instructions, **93-375**
court reporter, **93-374**
judicial management, **93-313**
opening statements, **93-351**
postjudgment issues, **93-380**
preservation of jury system, importance of, **99-184**
pretrial conference, **93-315**
day-in-the-life videos, **93-329**
ex parte conferences, **93-325**
ex parte settlement conferences, **93-339**
jury demand, withdrawal, **93-342**
medical examination, **93-318**
motions in limine, **93-333**
trial continuance, **93-331**
witness list, **93-315**
Rules of Evidence, disregarding, **98-141**
voir dire, **93-343**
backstriking, **93-349**
Batson issues, **93-347**

JUST COMPENSATION TAKING BY GOVERNMENT
states and municipalities, **92-408**

LAND
liability of possessor
trespasser's electrocution, **94-166**

LANDLORD AND TENANT
premises liability for third-party assaults
attack by patient in tenant's mental clinic, **91-11**
deliveryman, assault on, **91-20**
foreseeability, **91-13, 91-19, 91-68**
high crime areas, **91-11**
intruder attacks, Illinois view, **91-68**
lease-implied duties, **91-24**
lighting and locks, **91-10, 91-68**
practical effect approach, **91-21**
prior criminal instances, **91-68**
reasonable precautions, **91-21**
reference writings, **91-42**
state public policy concerns, **91-23**
tenant rape victim, **91-23**

LAW FIRMS
attorneys leaving, **92-445**
breakup
generally, **97-567**
commentary, **97-568**
discharge of partner
breach of duty of good faith, **98-81**

LAW OF THE CASE
closing argument, **98-188**

LAW SCHOOL EXAM
trial likened to, **98-236**

LAWYERS
see Attorneys (this index)

LEADING QUESTIONS
direct examination, **98-107**

LEGAL CONCLUSIONS
expert opinion evidence, admissibility, **98-154**

LEGAL MALPRACTICE
conflicts of interest, **98-349**
liability for emotional distress, **95-355**
limiting risk of lawsuit, **98-345**
paralegals, use of, **98-86**

LEGAL MALPRACTICE—Cont'd
rejection of client, **98-345**
third-party claims for indemnity, **98-84**

LEGAL WRITING
accuracy, **91-154**
briefs, **91-156**
clarity, **91-154, 91-161**
    Janus-Faced English, **91-155**
draft editing, **91-154**
    sentence revisions, **91-157**
language choices
    briefs, **91-156**
    contronyms, **91-155**
    doubling words, **91-158**
    glue words, **91-157**
    institutional language, **91-155**
    intended purpose of writing, **91-155**
    nominalizing, **91-158**
    nouns, verbs, and adjectives, **91-158**
    technical language, **91-155**
    vehicle for transmitting though, **91-156**
    verbosity, **91-156**
    working words, **91-157**
spelling, **91-160**
style, **91-160**
    active and specific words, **91-159**
    confusable English, **91-159**
    positive vs. negative assertions, **91-159**
    pretentious prose, **91-160**
    verbosity, **91-156**
verbosity, **91-156**
    corrective approaches, **91-157**

LIABILITY
partnerships
    general partners, limitations, **94-305**
possessor of land
    premises liability for third-party assaults, **91-2 et seq.**
public officials
    personal capacity, **92-469**

LIBEL
see Defamation (this index)

LIFE EXPECTANCY
catastrophic injuries and, **99-32**

LOGIC
generally, **99-198 et seq.**

LONG-ARM STATUTE
acts committed
    nexus, cause of action, **92-370**
catch all statutes, **92-379**
cause arising from acts
    flexible definition, **92-369**
    restrictive definition, **92-371**
cause of action
    broad definition, **92-375**
due process
    constitutional test, **92-380**
fundamental fairness, **92-355**
minimum contacts
    factors, **92-422**
    joint tortfeasors, **92-421**
patent infringement, **92-345**
    acts outside state, **92-406**
    business transactions, **92-361**
    nondomiciled defendants, **92-352**
    out-of-state infringement, **92-376**
    requirements, **92-353**
    situs of injury, **92-363**
    tortious injury, **92-362**
pendent personal jurisdiction, **92-413**
personal jurisdiction
    minimum contacts, forum state, **92-405**
    reasonableness, **92-423**
    two-part test, **92-402**
service authorization, **92-354**
state application
    substantial relationship test, **92-357**
state authorization, **92-357**
state statutes
    patent infringement, **92-351**
strict compliance with terms, **92-356**
tortious conduct
    acts outside state, **92-365**
    acts within state, **92-364**

LONG-ARM STATUTE—Cont'd
Uniform Interstate and International Procedure Act, **92-360**

LOSS OF ENJOYMENT OF LIFE
comatose victim, **94-57**

MALPRACTICE
see also Medical Malpractice (this index)
cross-examination of expert, **99-266 et seq.**
hospital
    apparent authority of physician-contractor, **94-511**
legal malpractice
    divorce case, **93-288**
    failure to use physical examination, **95-115**
    liability for emotional distress, **95-355**
    obtaining other counsel, **92-272**
    trial counsel tactics, **92-128**
medical
    covering physician's negligence, liability of attending physician, **94-210**
    expert not necessary, trial judge's view, **97-355**
    informal opinions, **97-256**
        commentary, **97-262**
    obstetrics
        childbirth injuries without fault, **91-104**
        postbirth skull fracture, **91-102**
        res ipsa loquitur, applicability to multiple defendants, **91-102**
    res ipsa loquitur
        joint control, **91-103**
        multiple defendants, **91-102**
        postdelivery infant skull fracture, **91-102, 91-104**
    wrongful conduct of defense attorney, **97-295**
        commentary, **97-296**
psychotherapists
    negligent cause of murderer's mental deterioration, **91-314**
vicarious liability of attending physician, **94-210**

MANDAMUS
interlocutory appeal by, **99-71 et seq.**
protective orders, **93-216**

MANUFACTURER'S DIRECT LIABILITY
government contractor defense, **92-327**

MANUFACTURING DEFECTS
manufacturer's liability
    government contractor defense, **92-335**

MAPS, CHARTS, AND GRAPHS
demonstrative evidence, **98-313**

MARITAL PROPERTY
divorce, **92-288**

MARITIME LAW
damages
Limitations of Shipowners' Liability Act, **93-115**
Jones Act
seamen, meaning of
generally, **92-533**
conclusion, **97-565**
history of Jones Act, **97-532**
loss of society
wrongful death actions, **93-294**
prejudgment interest, **97-486**
generally, **97-486**
commentary, **97-511**
conclusion, **97-510**
date of accrual, **97-504**
definition, **97-488**
guiding principles, **97-488**
history of awarding prejudgment interest, **97-491**
modern application of prejudgment interest, **97-492**
purpose of prejudgment interest, **97-489**
rate of interest, **97-507**
recreational vessels, duties and liabilities
persons in distress at sea, **93-385**
wrongful death actions
loss of society, **93-294**

MEDIA
cameras in courtroom, **94-383**

MEDIATION
alternative dispute resolution, **98-393**

MEDICAL DEVICES
products liability suit, Medical Device Amendments Law as affecting, **97-461**
commentary, **97-462**

MEDICAL ILLUSTRATIONS
demonstrative evidence, **98-309**

MEDICAL MALPRACTICE
see also Malpractice (this index)
brain damage, fetal, closing argument
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
covering physician's negligence, liability of attending physician, **94-210**
cross-examination of expert, **99-266 et seq.**
expert not necessary, trial judge's view, **97-355**
fetal brain damage, closing argument
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
informal opinions, **97-256**
    commentary, **97-262**
obstetrics
    childbirth injuries without fault, **91-104**
    postbirth skull fracture, **91-102**
    res ipsa loquitur, applicability to multiple defendants, **91-102**
res ipsa loquitur
    joint control, **91-103**
    multiple defendants, **91-102**
    postdelivery infant skull fracture, **91-102, 91-104**
workers' compensable injury, negligent treatment of, **99-381**

MEDICAL TREATMENT
AIDS sufferers, discrimination against, **99-461**
consumer fraud and deceptive business practices, **92-566**

MEDICAL WITNESS
treatises, use at trial, **91-312**

MICHIGAN
see also Premises Liability and Criminal Assaults (this index)
insurance
    insurer's malpractice right against insured's counsel, **91-163**

MILK PRODUCERS
punitive damages
    salmonellosis, **92-138**

MISTRIAL
preserving issues for appeal, motion for mistrial, **98-37**

MODELS
demonstrative evidence, **98-309, 98-310**

MONTREAL INTERIM AGREEMENT
willful misconduct, lifting of damages limits
terrorist bombing of airplane, **94-226**

MULTIDISTRICT LITIGATION
asbestos litigation jurisdiction in federal and state courts
transaction costs, **91-229, 91-234**
asbestos settlement opinion outline, **91-215**
appendices, **91-219**
class actions, **91-217**
fairness of settlement, **91-216, 91-218**
history and procedural background, **91-215**
jurisdiction, **91-217**
payment plan, interpretation, **91-218**
settlement, connection to other asbestos problems, **91-219**
aviation disaster litigation, **93-27**
consolidated proceedings
exemplar trials, **91-233**
opting out, **91-234**
limitations, **91-233, 91-234**
consolidation of mass litigation
equity, effect of, **91-220**
federal remedial legislation, **91-224, 91-234**
estoppel by verdict
class action analogy, **91-233**
exemplar trials, **91-233**
opt out rights, curbs, **91-233, 91-234**
jurisdiction
federal diversity jurisdiction, **91-225**
interest factors, **91-228**
minimum contacts requirement, **91-225**
manual, **93-27**
mass disaster litigation
categorization of claimants, **91-232**
federal government, joinder as defendant, **91-225**
joinder of defendants, **91-225**
jurisdictional problems, **91-223**
legislation proposals, **91-221**
remedial measures, resistance, **91-223**
Multidistrict Litigation Act, **93-24**
practical suggestions, **93-29**
pretrial proceedings
amendments to pleadings, **93-40**
answers, **93-40**

MULTIDISTRICT LITIGATION—Cont'd
pretrial proceedings—Cont'd
bridge plaintiffs, **93-42**
cooperation of counsel, **93-50**
coordinated liability discovery, **93-36**
document depository, **93-36**
document production, **93-36**
emergency orders, **93-42**
fees, **93-47**
form of pleadings, **93-39**
forms of pleadings, **93-39**
initial discovery, **93-38**
liaison counsel, **93-35**
motions, **93-40**
newly filed actions, **93-48**
next conference, **93-50**
pending actions, **93-50**
plaintiffs' steering committee, **93-33**
preservation of evidence, **93-41**
pretrial order, **93-32**
reimbursements, **93-45**
service, **93-49**
settlement procedures, **93-43**
state court actions, applicability, **93-49**
subsequent cases, applicability, **93-49**
termination of liability discovery, **93-39**
time limitations, **93-40**
transferred actions, **93-48**
United States, participation, **93-39**
proceedings, **93-24**
rules of procedure, judicial panel, **93-25**
transferee courts, **93-27**

MUNICIPAL CORPORATIONS
taking by government
just compensation, **92-408**
tort liability
flood in tunnel leased by municipality to communications and utility companies, **98-93**
911 telephone calls, responses, **98-90**

NATIONAL TRANSPORTATION SAFETY BOARD
accident reports
admission into evidence, **91-144**

NEGLIGENCE
actionable negligence, definition, **91-6**
Boy Scouts of America
scout leader, **92-309**
evidence
destruction of records, **96-489**
fear of contracting AIDS, negligently inflicted. See AIDS (this index)
possessor of land
third-party criminal assaults, **91-2**
premises liability for third-party assaults
actionable negligence, **91-6**
business invitors, **91-15, 91-67**
duty, **91-7, 91-17, 91-73**
foreseeability, **91-16, 91-27, 91-65**
fundamental concepts, **91-5**
inconsistencies in case law, **91-9, 91-26**
landlord negligence, **91-6, 91-12, 91-71**
proximate cause, **91-10**
reasonable care standard, **91-19**
security guard negligence, **91-71**

NEGLIGENT OPERATION OF AUTOMOBILE
generally, **92-276**

NEGOTIATION
games lawyers play, **94-176**
tactics, **98-368**

NEW JERSEY
premises liability for third-party assaults
implied warranty of admissibility, **91-24**
landlord liability, **91-20**

NEW YORK
Commercial Division of supreme court, resolution of business disputes, **98-55**
premises liability for third-party assaults
reasonableness of precautions relative to dangers, **91-23**

NO-FAULT
see Automobiles; Insurance (this index)

NOTES
jury notebooks, **93-589**

NOTES—Cont'd
opening statement, avoiding notes, **98-406**

NULLIFICATION ATTITUDE
jury deliberations, discharge of juror, **98-246**

NURSES
charting practices, **99-4, 99-19**
communication with doctors, **99-8**
customary practices, **99-5**
fetal monitoring
    infection after membrane rupture, **99-3**
    Pitocin to stimulate labor, **99-238 et seq.**
medication decisions, physician approval for, **99-248**
standards of care of
    generally, **99-39**
    fetal monitoring, **99-6**
    medication changes, **99-249**

OBJECTIONS
judge's advice to young lawyer, **94-39**
preserving issues for appeal, **98-18, 98-31**
requests for admission of facts, **94-12**
thank you response to ruling, impropriety, **94-40**

OBSTETRICS
amniotic fluid, leaking, **99-4, 99-16**
blood pressure monitoring, **99-255**
brain damage, fetal, closing argument
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
charting practices, **99-4, 99-19**
fetal monitoring
    infection after membrane rupture, **99-3 et seq.**
    Pitocin to stimulate labor, **99-238 et seq.**
infection after membrane rupture, **99-3 et seq.**
medical malpractice
    childbirth injuries without fault, **91-104**
    postbirth skull fracture, **91-102**
    res ipsa loquitur, applicability to multiple defendants, **91-102**
neonatal period, **99-299**
nurse-doctor communication
    fetal distress, **99-238 et seq.**
    infection after membrane rupture, **99-3**

OBSTETRICS—Cont'd
nurse-doctor communication—Cont'd
Pitocin dosage, increasing, **99-248**
team approach to obstetrics, **99-250**
oxygen deprivation, effect of, **99-245**
Pitocin to stimulate labor
generally, **99-239**
blood pressure monitoring, **99-255**
dosage, increasing, **99-248**
ruptured membrane, **99-4**
septic shock, fetal, **99-6**
spastic quadriparesis, **99-240**
team approach to obstetrics, **99-250**

OFFER OF PROOF
preserving issues for appeal, **98-32**

OFFERS OF JUDGMENT
see Settlement (this index)

OPENING STATEMENT
generally, **99-139 et seq.**
see also Argument (this index)
anticipating defenses, **99-146**
civil jury trial, **93-351**
corporate defendants, referring to, **99-146**
damages, presenting, **99-147**
defenses, anticipating and refuting, **99-146**
depositions, explaining evidentiary value of, **99-140**
exhibits, explaining use of, **99-140**
experts, introduction, **99-142**
hidden damages, presenting, **99-149**
interrogatories, explaining evidentiary value of, **99-140**
large damage awards, preparing jury for, **99-155**
narrative of events, **99-144**
outline, **93-578, 99-139**
pain and suffering damages, presenting case for, **99-153**
parties, introduction, **99-142**
plaintiff lawyer's guide, **98-406**
refuting defenses, **99-146**
tense, present and past, use of, **99-145**
trial preparation outline, **98-221**

OPINION EVIDENCE
see Experts (this index)

PAIN AND SUFFERING
argument for, **99-34, 99-263**
damage calculations, **99-153**

PARALEGALS
legal malpractice, **98-86**

PARENT
child-parent communications, privilege for, **99-352 et seq.**
immunity doctrine
availability, **92-521**
negligent operation of automobile, **92-276**
scope of immunity, **94-529**
paternity tests
DNA identification, **94-359**
smoking, liability to child, **94-529**

PARTNERSHIP
law firm partner, discharge of
breach of duty of good faith, **98-81**
litigation
accounting as prerequisite, **94-307**
limited versus general partner, **94-305**

PASSENGERS
liability
reckless driver, **92-269**

PATENT INFRINGEMENT
jurisdiction
pendent personal jurisdiction, **92-410**
long-arm statutes, **92-345**
common nucleus of operative facts, **92-416**
Fifth Amendment due process test, **92-394**
pendent personal jurisdiction, **92-415**
out-of-state acts, **92-417**
personal jurisdiction
two-part test, **92-404**

PEREMPTORY CHALLENGES
see Jury Selection (this index)

PERJURY
depositions, permissible changes in transcript of by witness, **99-474 et seq.**

PERJURY—Cont'd
ethics and professionalism, client's perjury, **98-278**

PERSONAL INJURIES
see also various types of injuries throughout this index
automobiles
    latent heart damage after blunt chest trauma, **91-249**
future sequelae, risk of
    50 percent probability rule, **91-92**
heart damage after blunt chest trauma
    arterial damage, **91-250, 91-252**
    cause, **91-251**
    latency, **91-249, 91-252**
investigation made in exaggerated claim
    private investigator's observations of plaintiff, **91-89**
prior or subsequent injuries
    latent heart damage after blunt chest trauma, **91-249**
proof of future sequelae
    more probable than not standard, **91-92**

PERSUASION
opening statement, subtle persuasion, **98-411**

PHOTOGRAPHS
evidence, **93-308**

PHYSICAL EVIDENCE
preserving, **98-305**

PHYSICAL EXAMINATION
court-ordered
    tape recordings, proper use, **95-113**
use by defense attorneys to avoid legal malpractice suits, **95-115**

PHYSICIANS AND SURGEONS
see also Medical Malpractice (this index)
board certification procedures, **99-95**
communication with nurses, **99-8, 99-23**
cross-examination
    frequent testimony, **95-273**
Health Care Improvement Act, remedies for doctors facing disciplinary action, **97-194**
    commentary, **97-206**
    conclusion, **97-205**

PHYSICIANS AND SURGEONS—Cont'd
Health Care Improvement Act, remedies for doctors facing disciplinary action—Cont'd
exceptions, **97-197**
hospital liability for physician negligence
apparent authority theory, **94-511**
independent contractors, liability of hospital, **94-511**
nurses, communication with, **99-8, 99-23**
residents, supervision, **99-295**
telemedicine standard of care, **99-305**
treating physician, utilizing as expert witness, **99-397**

PICTURESQUE SPEECH
see Word Pictures (this index)

PLEADINGS
partnership actions
general partners, actions against, **94-309**
trial preparation outline, review of pleadings, **98-215**

POLICE
civil rights actions
bifurcation, **93-503**
excessive force
instruction, civil rights case, **91-112**
prior conduct, **95-270**

POLICE REPORTS
evidence, civil jury trial, **93-357**

PRACTICE OF LAW
interstate practice, validity of fee agreements, **99-226 et seq.**
legal profession's problems
commentary, **94-312**
young lawyers, advice from judge, **94-32**

PREEMPTION
see Federal Preemption (this index)

PREJUDGMENT INTEREST
age discrimination, **98-68**
Maritime Law
generally, **97-486**
commentary, **97-511**

PREJUDGMENT INTEREST—Cont'd
Maritime Law—Cont'd
conclusion, **97-510**
date of accrual, **97-504**
definition, **97-488**
guiding principles, **97-488**
history of awarding prejudgment interest, **97-491**
modern application of prejudgment interest, **97-492**
purpose of prejudgment interest, **97-489**
rate of interest, **97-507**

PREMISES LIABILITY AND CRIMINAL ASSAULTS
actionable negligence, **91-6**
ALR references, **91-64**
assailant's role in litigation, **91-2**
assumption of obedience of law, **91-7**
bibliography, **91-42**
business invitor liabilities
compliance with criminal demands, **91-28**
customer assaults, **91-235**
duty, customer safety, **91-235**
duty to police premises, **91-73**
employees' conduct, **91-73**
movie theater, attack in, **91-15**
notice of danger, analogous cases, **91-65**
occupiers, **91-67**
parking lot assaults, **91-26. 91-67**
reasonably foreseeable criminal conduct, **91-68, 91-72**
security guard negligence, **91-71**
shooting of tavern patron, **91-15**
store security guards, **91-17**
case law development, **91-9**
circumstances, special, **91-4**
conflicting state opinions, **91-26**
consensual basis for liability, **91-9**
control of premises, **91-8**
defense preparation, guidelines, **91-37**
assailant and plaintiff-victim, **91-40**
checklist, **91-41**
deposition and investigation of plaintiff, **91-40**
detailing defendant's security precautions, **91-38**
focus of defense, **91-38**
listing security measures, **91-39**
personal investigation of incident, **91-39**

PREMISES LIABILITY AND CRIMINAL ASSAULTS—Cont'd

defense preparation, guidelines—Cont'd
preparation for closing argument, **91-38**
statements, witness, **91-39**
deposition, hotel security director, **91-47**
defense counsel's examination, **91-59**
initial information, **91-47**
plaintiff's redirect, **91-61**
duty
apartment buildings, lighting and locks, **91-10**
high crime areas, **91-11**
invitees, **91-235**
special relationships, **91-8**
exceptional circumstances requirement, **91-7**
fairness, **91-4**
foreseeability
actual or constructive knowledge, **91-72**
business premises open to public, **91-72**
California analysis, **91-28, 91-71**
compliance with criminal demands, **91-28**
employees acting outside scope of employment, **91-73**
exception to general rule, **91-236**
history of criminal attacks, **91-239**
imminent probability of harm, **91-27**
Korean Air Lines Flight KE 007 disaster, comparison, **91-63**
Michigan approach, **91-16**
particular type of assault, **91-72**
range, **91-29**
standards, **91-8**
unreasonable risk, distinction, **91-12**
intervening or superseding cause concept, **91-6**
investigation of plaintiff's case
checklist, **91-41**
communications with defendant's agents, **91-31**
information sources, **91-31**
investigation, **91-32**
police interviews, **91-33**
prefiling discovery, **91-31**
private investigator, use of, **91-33**
removal of client from scene, **91-31**
security environment of premises, determining, **91-32**
support of client, sensitivity, **91-31**
landlord liability
commercial leases, **91-25**

PREMISES LIABILITY AND CRIMINAL ASSAULTS—Cont'd
landlord liability—Cont'd
deliveryman, attack on, **91-20**
high crime areas, **91-11**
history of prior criminal attacks, **91-239**
implied duties, **91-24**
lighting and locks, **91-10**
misfeasance and nonfeasance, distinction, **91-23**
predictable criminal attacks, **91-22**
proportionality, state court approaches, **91-23**
public policy, recent concerns, **91-23**
tenant rape victim, **91-23**
violent patient in tenant's mental clinic, **91-11**
landowner's duty, **91-7**
law review references, **91-42**
litigation increases, **91-238**
Michigan case law, **91-9**
foreseeability, **91-16**
independent intervening criminal act, **91-10**
landlord-tenant responsibilities, **91-9**
lighting and locks in high crime areas, **91-11**
negligence
contractual liability, distinction, **91-71**
duty, **91-69**
foreseeable unauthorized entries, **91-68**
Illinois law, **91-68**
landlord liability, **91-6, 91-12, 91-71**
security guards, **91-71**
voluntarily assumed duties, **91-70**
negligent third parties, **91-5**
overview, **91-4**
pretrial discovery, plaintiff guidelines, **91-34**
chain of command bureaucracies, **91-35**
checklist, **91-41**
conditions at time of attack, **91-35**
demonstration of defendant's wrong, **91-37**
deposition sample, hotel security director, **91-47**
eyewitness employee depositions, **91-35**
flexibility, **91-37**
hierarchical discovery, digressions, **91-36**
products liability discovery, distinction, **91-34**
scapegoat's statement, **91-36**
up through ranks deposition method, **91-3**
public interest, **91-5**

PREMISES LIABILITY AND CRIMINAL ASSAULTS—Cont'd
range of foreseeability, **91-29**
geographic distances, **91-30**
parking lots, **91-26**
public ways, **91-30**
reasonableness of precautions as ultimate question, **91-3**
reference books and articles, **91-45**
relationships, special, **91-8**
social engineering concept, **91-5, 91-6, 91-21**
third persons
definition, **91-72**
employees, **91-73**
trespassers
foreseeability, **94-166**
uniqueness of litigation, **91-2**

PREPARATION
see also Focus Groups (this index)
child witnesses, **99-57 et seq.**
closing argument, **98-168**
demonstrative evidence, **98-293**
depositions
generally, **98-328**
premises liability, hotel security director, **91-47**
premises liability, witnesses, third-party assaults, **91-35**
discovery
premises liability for third-party assaults, **91-31, 91-34**
employee history file in employment discrimination suits
accuracy and consistency checks, **91-298**
age, sex and race data, accuracy, **91-300**
biased or inaccurate data, **91-293**
class membership errors, **91-300**
computerized data development, **91-293**
constructed pools analyses, **91-308**
contents, **91-283**
creation, **91-285**
credibility of data base, **91-293**
current and permanent positions, table, **91-298**
data base accuracy, proponent's responsibility, **91-299**
data base for analysis of issues, **91-284**
data set redundancy, **91-304, 91-305**
diagnostic checks of variables in data base, **91-300**
diagnostic checks targeted to allegations in case, **91-304**
employer's personnel system, comprehension, **91-295**

PREPARATION—Cont'd
employee history file in employment discrimination suits—Cont'd
error checks, two or more records, **91-303**
existing computerized files, advantages and pitfalls, **91-289**
hypothetical case, **91-283**
incomplete data sources, **91-292**
information table, **91-286**
judicial review of accuracy checks, **91-304, 91-305**
key personnel actions and information, selections, **91-286**
mergers and separations of computerized files, **91-287**
monetary award analyses, **91-309**
personnel actions includable, examples, **91-285, 91-286**
qualifications as analytical factor, **91-309**
questions answerable by appropriate file, **91-284, 91-310**
recommended procedure in developing file, **91-294**
salary progression, **91-309**
single records, error checks, **91-302**
source document errors, **91-306**
source documents as data base, **91-291**
standardizing values in data file, **91-295**
subjective judgments preceding data entry, **91-292**
temporary and permanent assignments, tracking, **91-297**
transcription of data, clerical errors, **91-292**
unaugmented computerized files, review, **91-294**
validity checks, **91-305**
variables included in file, table, **91-288**
waiting time analyses, **91-307**
work force descriptions, **91-306**

PREPARING EXPERT WITNESS
see also Experts (this index)
hiring an expert witness, **97-1**
assisting expert in evaluation, **97-5**
commentary, **97-13**
considerations to use in choosing an expert, **97-3**
cross-examination, **97-11**
depositions, **97-7**
direct examination, preparation for, **97-9**
how to find an expert, **97-2**
initial evaluation, **97-5**
orienting inexperienced expert to adversary system, **97-6**
practical tips, **97-12**
preliminary conference, **97-5**
preparation, **97-7**

PREPARING EXPERT WITNESS—Cont'd
hiring an expert witness—Cont'd
subpoenas, **97-7**
when to search for expert, **97-1**

PRESERVATION OF EVIDENCE
see Evidence (this index)

PRESERVING ISSUES FOR APPEAL
generally, **98-11**
bench conferences, **98-36**
continuing objections, **98-31**
limiting instruction on evidence, **98-40**
mistrial, motion for, **98-37**
motion in limine, pretrial procedure, **98-13**
objections, generally, **98-18**
offer of proof, **98-32**
striking evidence, motion for, **98-37**

PRETRIAL CONFERENCE
day-in-the-life videos, **93-329**
demonstrative evidence, **98-302**
ex parte conferences, **93-325**
ex parte settlement conferences, **93-339**
jury demand, withdrawal, **93-342**
medical examination, **93-318**
motions in limine, **93-333**
trial continuance, **93-331**
witness list, **93-315**

PRETRIAL PROCEDURE
conference
agents authorized to settle, ordering appearance, **91-334, 91-336**
Federal Rules of Civil Procedure, **91-334**
interlocutory appeals, **99-71 et seq.**
motion in limine, **98-13**
multidistrict litigation
amendments to pleadings, **93-40**
answers, **93-40**
bridge plaintiffs, **93-42**
cooperation of counsel, **93-50**
coordinated liability discovery, **93-36**
document depository, **93-36**
document production, **93-36**

PRETRIAL PROCEDURE—Cont'd
multidistrict litigation—Cont'd
emergency orders, **93-42**
fees, **93-47**
forms of pleadings, **93-39**
initial discovery, **93-38**
liaison counsel, **93-35**
motions, **93-40**
newly filed actions, **93-48**
next conference, **93-50**
pending actions, **93-50**
plaintiffs' steering committee, **93-33**
preservation of evidence, **93-41**
pretrial order, **93-32**
reimbursements, **93-45**
service, **93-49**
settlement procedures, **93-43**
state court actions, **93-49**
subsequent cases, **93-49**
termination of liability discovery, **93-39**
time limitations, **93-40**
transferred actions, **93-48**
United States, participation, **93-39**
request for admission of facts, **94-9**

PRIVILEGED COMMUNICATIONS
e-mail communications, protection of, **99-42 et seq.**
parent-child communications, **99-352 et seq.**
social worker, **95-280**

PRODUCTS LIABILITY
see also Medical Devices (this index)
consumer expectation test, **92-517**
defense strategies, **96-442**
defenses, **95-336**
open and obvious, **95-351**
discovery
bill for discovery, **93-519**
emergency motion for protective order, **93-507**
inspecting the product, **93-505**
interrogatories, **93-519**
investigating the product, **93-512**
performance standards, **93-514**
product literature, **93-512**

PRODUCTS LIABILITY—Cont'd
discovery—Cont'd
product testing, **93-510**
request to produce, **93-519**
technical information, **93-515**
witnesses, **93-512**
evidence
federal coal mining regulations, **91-208**
government standards, **91-209**
forum selection, foreign plaintiffs, **94-136**
historical development, **95-336**
international plaintiff, choice of forum, **94-136**
litigation management, **96-442**
Medical Device Amendments Law. See Medical Devices (this index)
punitive damages
exploding shotgun, **91-201**
insurance coverage, **91-205**
reckless disregard for safety of others, **91-201**
resellers
used equipment, **94-363**
risk, benefit analysis test, **92-517**
sale of product
used equipment, **94-363**
strict liability
defenses, **95-336**
resellers, used equipment, **94-363**
tort reform
damage caps, **96-442**
used equipment, reseller's liability, **94-363**

PROOF
see Evidence (this index)

PROPERTY RIGHTS
taking by government
just compensation, **92-408**

PROPRIETOR
liability for employee conduct, **91-74**

PROSECUTING ATTORNEYS
absolute immunity, **93-492**
civil rights actions
immunity, **93-103**

PROSECUTING ATTORNEYS—Cont'd
federal indictment
exculpatory evidence, **92-298**
immunity, **96-462**
monetary damages, **93-492**
qualified immunity, **95-121**

PROSECUTION
compulsory hypnosis, use of, **95-121**

PROTECTIVE ORDERS
affidavits, **93-217**
challenge, **93-216**
intervention, **93-217**
mandamus actions, **93-216**
modification, **93-217**
products liability, **93-507**
requests to admit, limiting, **94-11**
sample, **93-224**

PROXIMATE CAUSE
argument, explaining causation in, **99-25, 99-246**
but for test, **91-257**
instructions
pattern instruction, **91-258**
malpractice in treatment of compensable injury, **99-381 et seq.**
RICO, **92-281**
sequelae caused by defendant's negligence, probability rule, **91-93**
sole proximate cause defense, **97-212**
burden of proof, **97-230**
commentary, **97-242**
contribution, **97-231**
contributory negligence, **97-236**
distracting jury from only relevant causal inquiry, **97-220**
eliminating sole proximate cause as defense, **97-240**
instructions to jury, **97-233, 97-401**
intervening cause distinguished, **97-219**
problems with historical doctrine and theory, **97-214**
problems with sole proximate cause, **97-216**
substantial factor test, **91-257**
workers' compensable injury, negligent treatment of, **99-381**

PSYCHIATRIST
dangerous propensities of patient
negligent cause of murder's insanity, **91-314**

PSYCHOLOGISTS
board certification procedures, **99-95**
future dangerousness opinion, **99-88 et seq.**
qualifications, **99-95 et seq.**
risk assessment opinions, **99-88 et seq.**

PUBLIC OFFICIALS
prosecuting attorneys
    qualified immunity, **95-121**

PUBLIC POLICY
punitive damages, generally
    public as recipient, proposal, **94-263**

PUBLIC RELATIONS
generally, **99-182 et seq.**

PUNITIVE DAMAGES
see also Damages (this index)
asbestos exposure, **93-480**
automobile liability, **91-202**
    choice of law, **91-205**
choice of laws doctrine
    comparative impairment test, **94-297**
    governmental interest test, **94-297**
due process rights, **93-634**
evidence spoliation, **94-519**
Federal Aviation Act, preemption under, **91-131 et seq.**
history, **94-264**
instructions
    willful and wanton conduct, **91-203**
insurability
    public policy, **91-202, 91-206**
insurance
    coverage, **94-293**
insurers
    conflict with insured, **92-400**
milk producers
    salmonellosis, **92-138**
products liability
    flagrant indifference to public safety, **91-201**
    postmarketing failure to remedy danger, **94-290**
    reasonable foreseeability, **91-207**
public as recipient, proposal, **94-263**

PUNITIVE DAMAGES—Cont'd
spoliation of evidence, **94-519**
vicarious liability
employer, **94-355, 94-505**
who should receive award, proposal, **94-263**
willful misconduct
definition, **91-203**

QUESTIONS OF LAW
Rule 704, Federal Rules of Evidence excluding expert testimony on, **98-155**

QUI TAM ACTIONS
False Claims Act, recovery denied, **93-124**

RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)
proof of fraud, class action, **98-95**
proximate cause, **92-281**
purchaser-seller requirement, **92-281**

RAILROADS
damages
limitations due to tort reform, **96-475**
Railway Labor Act
discharge of employee, **97-450**
commentary, **97-456**
warning devices
questions of adequacy and appropriateness, **96-475**

RAILWAY LABOR ACT
discharge of employee, **97-450**
commentary, **97-456**

RAPE
appeal, **93-601**

REAL PROPERTY
impact fees on developers, **94-187**

REASONING
generally, **99-198 et seq.**

RECKLESS ACTS
passenger liability, **92-269**

REHABILITATION
life care plan, **99-259**
physiatrician's opinion as to rehabilitation expenses, **99-257**
witnesses, **98-115**

REMAND
generally, **97-127, 97-129**

REMOVAL TO FEDERAL COURT
generally, **97-127**
commentary, **97-129**

REQUESTS TO ADMIT FACTS
see Admissions (this index)

RES IPSA LOQUITUR
joint control, **91-103**
medical cases
multiple defendants, **91-102**
obstetrics, **91-102**

RESELLERS
see Products Liability (this index)

RESPONDEAT SUPERIOR
business proprietor's tort liability for conduct of employees, **91-74**

RESTAURANT
secondhand smoke
claims under the Americans with Disabilities Act, **95-358**

RICO
see Racketeering Influenced and Corrupt Organizations Act (RICO) (this index)

RULE 11 OF FEDERAL RULES OF CIVIL PROCEDURE
attorney survey, **93-198**
benefits, **93-155**
chilling effects, **93-166**
comparative study, federal and state courts, **93-137**
costs, **93-159**
different cause of action from controlling law, **92-113**
disproportionate impact, **93-168**

RULE 11 OF FEDERAL RULES OF CIVIL PROCEDURE—Cont'd
district court
subject matter jurisdiction, **92-293**
empirical study, **93-137**
comparison, other empirical studies, **93-180**
date presentation, **93-144**
implications of data, **93-190**
methodology, **93-141**
nature, **93-141**
need, **93-139**
organization, **93-141**
purpose, **93-141**
goals, **93-155**
judge/magistrate survey, **93-195**
one bad apple theory, **92-356**
party dismissed from case, **92-133**
problems, **93-159**
proposed amendment, **93-190**
sanctions, **93-174**
satellite litigation, **93-160**
state action, **93-194**

RULES OF EVIDENCE
see Federal Rules of Evidence (this index)

SCIENTIFIC FACTS
expert witness
methodology, evaluating, **94-75, 94-330**

SCIENTIFIC WITNESSES
experts
court-appointed, **94-342**
methodology, evaluating, **94-75, 94-330**

SEAMEN
see Jones Act (this index)

SEARCH AND SEIZURE
appeals
generally, **97-444**
commentary, **97-449**
crimes, seizure by U.S. of property linked to, **97-271**
commentary, **97-276**

SEARCH AND SEIZURE—Cont'd
students and teachers, **97-118**
commentary, **97-123**

SEIZURE
see Search and Seizure (this index)

SENTENCING
child pornography law violations, **99-347 et seq., 99-480 et seq.**
death penalty, **99-88 et seq.**
future dangerousness opinion, **99-88 et seq.**

SERVICE OF PROCESS
actual knowledge excusing service on execution of default, **91-325**
actual knowledge of lawsuit, **91-326**
Federal Rules 4(e) and 4(f), **92-348**
inadvertent mistakes, **91-328**
long-arm statutes
nondomiciled party, **92-367**
pendent personal jurisdiction, **92-414**
subpoena to appear at trial
hundred-mile rule, **94-83**
twin residing in same household, **91-322**

SETTLEMENT
attorney's fees, **95-143**
children and minors, power of court to compel settlement, **97-112**
commentary, **97-118**
failure to settle, causes
avoidance by attorneys, **94-54**
egocentric characteristics, **94-55**
games lawyers play, **94-176**
high-low agreements, **99-242**
profit-motive disincentives to lawyers, **94-51**
spendthrift settlement recipients, **94-114**
structured settlements
benefits, **92-44**
United States Treasury Bond trusts, **94-108**
worrying offers, **94-181**

SETTLEMENT EVALUATION AND NEGOTIATION
trial preparation outline, **98-219**

SEXUAL HARASSMENT
employee claims, **99-439 et seq.**

SIGNATURE
depositions, **98-342**

SIMPLIFIED LANGUAGE
direct examination, **98-108**
opening statement, **98-410**

SLANDER
see Defamation (this index)

SMOKING
see Tobacco (this index)

SOCIAL HOST
serving liquor, liability
knowingly serving minors, **92-419**

SOCIETY, LOSS OF
geographically distant relatives, **94-205**
nonuniformity of law among jurisdictions, **94-208**

SOLE PROXIMATE CAUSE DEFENSE
see Proximate Cause (this index)

SPOLIATION
see Evidence (this index)

STATE COURTS
personal jurisdiction, **92-424**

STATUTES
Uniform Interstate & International Procedure Act, **92-360**

STRIKING EVIDENCE
preserving issues for appeal, motion to strike, **98-37**

STRUCK JURY SYSTEM
jury selection process, **98-412**

STRUCTURED SETTLEMENTS
benefits to claimants and lawyers, **92-44**

STUDENTS AND TEACHERS
Constitutional violations, **97-118**
commentary, **97-123**

SUBPOENAS
compelling attendance at trial
hundred-mile rule, **94-83**
hiring an expert witness, **97-7**

SUMMARY JUDGMENT
factual disputes, resolution by, **99-80 et seq.**

SUMMATION
closing argument distinguished, **98-167, 98-170**

SUPREME COURT OF NEW YORK
Commercial Division of supreme court, resolution of business disputes, **98-55**

SURVEILLANCE
videotapes, **97-125**
commentary, **97-126**

TAPE RECORDINGS
court-ordered medical examination, proper use, **95-113**
demonstrative evidence, **98-308**

TELECOMMUNICATIONS
Electronics Communications Privacy Act, **99-46, 99-51**
e-mail communications, protection of, **99-42 et seq.**

TELEMEDICINE
documentation of calls, **99-288**
infant, symptomatic diagnosis of, **99-268**
standard of care, **99-305**

TELEPHONES
attorney-client privilege, compromising, **99-46**
negotiations, **98-382**
911 telephone calls, municipal tort liability, **98-90**

TESTIMONY
deposition vs live
manipulated absence of witness, **95-277**
layman's opinion of technical matters, **96-498**

THEORY OF CASE
closing argument, **98-175, 98-193**

THEORY Z
cross-examination, **98-125**

THERMOGRAMS
demonstrative evidence, **98-306**

TIME
extension of time
requests to admit, responses, **94-11**

TITLE VII
see also Arbitration; Civil Rights Actions (this index)
burden of proof, **99-447**
sexual harassment claims, **99-439 et seq.**
summary judgment, resolution of employment discrimination litigation by, **99-80 et seq.**

TOBACCO
secondhand smoke
claims under the Americans with Disabilities Act, **95-358**
parent's liability to child, **94-529**

TORTS
choice of forum
suggestions, **92-172**
long-arm statutes
acts outside state, **92-365**
international occurrences, **92-425**
municipal tort liability
flood in tunnel leased by municipality to communications and utility companies, **98-93**
911 telephone calls, responses, **98-90**
parental immunity doctrine
availability, **92-521**
patent infringement, **92-362**
post-accident remedial measures
generally, **97-577**
commentary, **97-579**
premises liability for third-party assaults
business invitors, **91-27**
duty, **91-7, 91-17**
landlords, **91-12**
social engineering aspects, **91-6, 91-21**

TORTS—Cont'd
punitive and exemplary damages
public fund as recipient, proposal, **94-264**
reform
generally, **97-376**
Congressional preemption of state legislatures, **95-140**
damage caps, **96-442**
damage limitations, **95-140**
reform or remedial proposals
punitive damages, **94-284**
situs of injury
patent infringement, **92-363**
social host liability
knowingly serving liquor to minors, **92-419**

TOXIC SUBSTANCES
waste site cleanups
attorney-consultant relationship, **94-18**

TRESPASS
landowner's duty to trespassers, **94-166**
children, **96-486**

TRESPASSERS
child
swimming pools, **96-486**

TRIAL
see also Alternative Dispute Resolution; Closing Argument; Opening Statement; Witnesses (this index)
admissions
withdrawing response to request to admit, **94-15**
cameras in courtroom
disadvantages, **94-383**
child witnesses. See Witnesses (this index)
communicate visually, **93-553**
authority, **93-582**
closing arguments, outlines, **93-578**
commandments, **93-583**
cost considerations, **93-565**
enlargements, **93-567**
examination of witnesses, outlines, **93-579**
forms of visual aids, **93-563**
general principles, **93-558**

TRIAL—Cont'd
communicate visually—Cont'd
jury decision making, **93-561**
jury information, **93-560**
jury memory, **93-561**
jury notebooks, **93-589**
jury perception, **93-562**
opaque projector, **93-574**
opening statements, outlines, **93-578**
overhead transparency, **93-572**
photographs, **93-569**
types of visual aids, **93-564**
video depositions, **93-590**
visual aids, **93-563, 98-297**
visual presenter, **93-570**
where to begin, **93-576**
instructions
foreseeability, third party's wrongdoing, **91-64**
law school exam, likened to, **98-236**
media coverage from courtroom
effect on all participants, **96-379**
effect on attorneys, **94-383, 94-389**
preparation
final request to admit facts, **94-9**
outline, **98-214**
stages of trial, description in opening statement, **98-407**
technique
closing arguments
consequentialist arguments, **94-399**
theory of liability, trial preparation, **98-218**

TRIAL LAWYERS
Code of Trial Conduct, American College of Trial Lawyers, **95-308**

ULTIMATE FACTS
requests for admission, **94-7**

UNAUTHORIZED PRACTICE
interstate practice, **99-226 et seq.**

UNITED STATES
False Claims Act, recovery denied, **93-124**

VENUE
patent infringement, **92-349**
aliens, **92-350**

VENUE—Cont'd
transfer
religious bias, **92-163**

VERDICTS
excessive
wrongful death, **92-95**
forms, explaining to jury, **99-29, 99-41, 99-245**
sample jury verdict forms, **98-199, Appendix II**
special interrogatory, commenting on how juries should answer, **98-98**

VICARIOUS LIABILITY
argument, explaining concept to jury in, **99-26, 99-245**
hospitals
independent contractor physician's acts, **94-511**
punitive damages, employers, **94-355, 94-505**
requests for admission of facts
scope of employment, **94-7**

VIDEOTAPE
child witnesses, use of videotaped statements of, **99-67**
chronologies, **98-226**
day-in-the-life videos
generally, **93-312**
voir dire, presentation during, **99-241**
demonstrative evidence, **98-225, 98-307**
depositions
creating, **93-590**
use at trial, **94-396**
progression videos, **98-228**
surveillance videotapes, **97-125**
commentary, **97-126**
wrongful death documentaries, **98-228**

VOIR DIRE EXAMINATION
see also Focus Groups; Jury Selection (this index)
advice to young lawyers, **94-37**
backstriking, **93-349**
Batson issues, **93-347**
civil jury trial, **93-343**
conducting by court or counsel
additional questions by counsel, **94-37, 98-397**
death penalty cases, interracial bias questions, **99-477**
effective voir dire, importance, **98-397**

VOIR DIRE EXAMINATION—Cont'd
metaphors, stepping inside juror's minds, **98-74**
open ended questions, **94-38**
peremptory challenge
racial motivation in civil cases, **91-320**
trial preparation outline, **98-222**

VOLUNTARY DISMISSAL
dismissal with prejudice, **92-91**

WAIVER
depositions, signature, **98-342**
nonworkers' compensation remedies, **94-380**

WARSAW CONVENTION TREATY
limitation of liability
commentary, **97-430**
examples of absurdities, **96-422**
international air travel, **96-422, 97-422**
notice requirement, **96-422**

WASHINGTON
insurance
good faith conduct of defense, enhanced duty, **91-168**

WETLANDS
value, **93-693**

WILLFUL AND WANTON
airline misconduct
avoidance of damage limits, **94-226**
attorney-client privilege, crime-fraud exception, **98-418**
punitive and exemplary damages in tort cases
vicarious liability, **94-505**

WITNESSES
see also Cross-Examination; Direct Examination, Mastering; Experts; Impeachment; Privileged Communications (this index)
adverse witness
civil jury trial, **93-354**
bias
media-coverage-related, **94-387**
child witnesses
generally, **99-57 et seq.**

WITNESSES—Cont'd
child witnesses—Cont'd
adolescents, **99-61**
educating child witnesses, **99-59**
fears, childrens,' **99-58**
preparation, **99-61**
preschool children, **99-59**
recesses, **99-67**
role playing, preparation by, **99-64**
shielding from defendant, **99-67**
support persons, **99-68**
truth, explaining importance of, **99-65**
videotaped statements, use of, **99-67**
credibility, closing argument, **98-176**
examination
outlines, **93-579**
examination. See Direct Examination, Mastering (this index)
expert witnesses
cross-examination, **93-370**
scope of opinion, **93-367**
Fifth Amendment rights, **93-363**
forgetful witness, arguing credibility of, **99-21, 99-253**
hundred-mile limit rule, **94-83**
impeachment of witness, highlighting on closing argument, **99-253**
opinion or conclusion, **96-498**
rehabilitation on redirect, **98-115**
scope of redirect, **93-366, 98-115**
subpoenas
geographical scope, **94-83**
tampering
media-coverage-related, **94-387**
trial preparation, checklist, **98-216**
trial preparation outline, **98-216**
videotaped statements, use of, **99-67**

WORD PICTURES
closing argument, painting word pictures, **98-183**
direct examination, phraseology and emotive words, **98-113**
opening statement, painting word pictures, **98-408**

WORDS AND PHRASES
act, **92-372**
actionable negligence, **91-6**
arising, **92-368**

WORDS AND PHRASES—Cont'd
cause of action, **92-373**
claim for relief, **92-374**
contracts of adhesion, **91-121**
contronyms, **91-155**
coronary angiography, **91-253**
CPK-MP enzyme monitoring procedure, **91-253**
CUMIS doctrine, **91-174**
due process, **92-377, 92-378**
employee history file, **91-283**
fair play, **92-433**
family member under automobile liability policy, **91-119**
forum, **92-400**
minimum contacts, **92-419**
next of kin, **91-319**
nominalizing, **91-158**
one bad apple theory, **92-356**
physiatrician, **99-257**
res ipsa loquitur, **91-102**
salmonellosis, **92-138**
substantial justice, **92-433**
third persons, **91-72**
willful and wanton conduct, **91-203**
willful misconduct, **91-203**

WORK PRODUCT PRIVILEGE
see Discovery (this index)

WORKERS' COMPENSATION
exclusivity of remedy
    intentional torts, **94-366**
    waiver of election of remedies, **94-380**
intentional torts
    exclusivity of remedy, **94-366**
malpractice in treatment of compensable injury, **99-381 et seq.**
waiver of election of remedies, **94-380**

WRONGFUL DEATH
see also Death by Wrongful Act (this index)
airplane accidents, **94-199**
damages
    bibliography, **91-108**
    childrens' deaths, **91-105**
    deceased child's society, **91-106**

WRONGFUL DEATH—Cont'd
damages—Cont'd
intangible damages, **91-106**
loss of society, **93-93**
delirium tremens, trauma-induced in alcoholic, as cause of death, **99-381**
excessive awards
minor and unmarried children, **91-105 et seq.**
excessive verdicts, **92-95**
loss of society, **92-95**
videotapes, wrongful death documentaries, **98-228**
wrongful death actions
automobile accident, **93-639**

WRONGFUL DISCHARGE
see Employment Relationship (this index)

X-RAYS
demonstrative evidence, **98-306**
disposal, spoliation of evidence, **94-522**
film preservation statute, right of action for violation, **91-330**

ZONING
conflict between federal and local laws, **95-266**
developer's rights, **94-66**
local restrictions, **95-266**

Author Index Supplement

REFERENCES ARE TO YEAR AND PAGE OF ANNUAL VOLUMES

ALPERT, ROBERT L., 93-1

BAIRD, ZOE, 93-232

BAZIER, ROBERT S., 99-238

BENNETT, FRED WARREN, 98-11

BESSEY, BARBARA L., PH.D., 91-283

BRIGHT, MYRON H., 91-264

CALEY, STEVEN P., 95-442

CARNEY, WILLIMA J., 92-44

CARRIAGN, HONORABLE JIM R., 95-230

CARTWRIGHT, ROBERT E., JR., 98-293

CHANEN, STUART J., 99-42

CHAPMAN, HOWARD S., 93-481

CHAPMAN, JAMES P., 98-246, 98-323, 99-381

CHAPMAN, ROBERT A., 98-236

COMISKEY, STEPHEN W., 99-187

COTCHETT, JOSEPH W., 94-263

DONNER, IRAH H., 91-345

FETZER, BRIAN C., 99-266

FISHER, RITA G., 95-143, 95-308

FORDE, KEVIN M., 92-76

GASS, J. RIC, 93-553

GIACCHETTI, CYNTHIA, 99-88

GOTFRYD, WILLIAM T., 94-83

GREENBLATT, LEWIS B., 92-445

GRESHAM, VINCENT T., 94-305

HAIG, ROBERT L., 95-442, 98-55

HARDING, JOHN R., JR., 95-38

HARRIS, DANIEL M., 99-69

HARRISON, II, HONORABLE MOSES, 98-44

HARTE, WILLIAM J., 95-379

HARTMAN, ALLEN, 91-154

HATFIELD, CECILE S., 92-327

HELLNER, MARK, 98-214

HENKE, MICHAEL J., 91-434

HERMAN, G. NICHOLAS, 98-102

HESS, GERALD F., 93-137

HILLMAN, DOUGLAS W., 91-249

HOLMES, BRENT D., 98-406

HOLMES, DAVID M., 99-362

HOLUB, DAVID W., 91-249

IMWINKELRIED, EDWARD J., 98-141

JANSSEN, HENRY H., 97-463

JENKINS, CHRISTIAN A., 99-170

JOHNSON, MARK A., 98-154, 98-357

JORDAN, LEO J., 91-162

JOSEFSBERG, ROBERT C., 97-360

JOSEPH, STEPHEN, 97-194, 99-198

JULIEN, ALFRED S., 99-139

KENNELLY, JOHN J., 92-172, 94-429, 97-133

KENNEY, CHRISTOPHER A., 94-1

KIM, STEPHANIE J., 98-278

KINSELLA, DANIEL V., 93-460

KLINE, SCOTT M., 92-163

KOLARIK, GERA-LIND, 98-225

KOVACHEVICH, ELIZABETH A., 92-65

LASSITER, CHRISTO, 94-383

LAURIE, JOHN G., 93-385, 95-1, 95-285, 97-299, 97-531

LEONARD, CARL A., 93-247

LEWIS, DAVID L., 98-118

LISNEK, DR. PAUL, 98-252, 98-368

MANN, LAWRENCE C., 94-118

MCCORMICK, DOUGLAS F., 94-399

MCGOWAN, DANIEL, 92-1

MCINTYRE, JOHN C., JR., 97-194

MILLER, PEGGY L., 92-153

MINER, ROGER J., 94-312

MONAHAN, MARIE ADORNETTO, 93-313

MOTHERWAY, NICHOLAS J., 93-505

O'HANLON, SHARON, 92-1

PANGIA, MICHAEL J., 95-205, 97-59

PATTI, ANTHONY P., 91-1

PAVALON, EUGENE I., 93-216, 97-1

PETERS, WALTER J., 99-57

PHILLIPS, JOHN G., 95-76, 97-212

POPE, DANIEL J., 98-278

RODRIGUEZ, ANGEL L., 91-76

ROSENTHAL, H. ALAN, 94-108

SALVI, PATRICK, 99-3

SAMSON, RICHARD L., 99-439

SCHIFF, ELLIOT, 98-345

SCHINDLER, RALPH J., JR., 97-17

SECKINGER, JAMES H., 98-166

SHEERIN, FRANCIS J., 94-108

SHOLL, ROBERT K., 99-170

SLOAN, JAMES B., 94-83

SOKOLSKY, ANITA, 94-18

STERNS, GERALD C., 95-336

STRAUSS, M. FRED, 94-18

TERRIEN. JEB T., 97-485

TOMPKINS, GEORGE N., JR., 92-24, 95-422, 99-182

TUITE, CORNELIA HONCHAR, 92-313

TURNER, MARSHALL S., 91-137

TURNER, N. JAMES, 91-448

VANCE, RUTH C., 91-249

WAKSLER, GERI L., 92-65

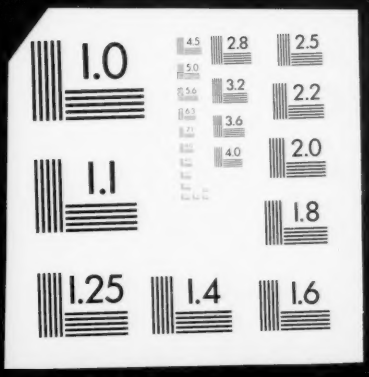
WALLACE, BRUCE T., 91-1

WARD, STEVEN C., 92-356

WEISS, TOBIAS, 95-23

WENNER, DAVID A., 99-315

WOOD, WILLIAM C., 98-397


1.0
2.8
2.5
3.2
2.2
3.6
4.0
2.0
1.1
1.8
1.25
1.4
1.6